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AMENDED IN SENATE AUGUST 5, 2002

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AMENDED IN ASSEMBLY MAY 23, 2002

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CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 3028

**Introduced by Committee on Judiciary (Corbett (Chair), Dutra,
Jackson, Longville, Shelley, Steinberg, and Wayne)**

March 12, 2002

~~An act to repeal and add Chapter 5.5 (commencing with Section 6400) of Division 3 of the Business and Professions Code, to amend An act to amend Sections 228, 527.6, 527.8, 638, 1281.95, and 1987 of the Code of Civil Procedure, to amend Sections 307, 5211, 7211, and 9211 of the Corporations Code, to amend Sections 2106 and 3111 of the Family Code, to amend Sections 7.6, 68085, 68203.1, and 68516 68085, and 68203.1 of, to add Sections 20902.5, 68087.1, and 69645 to, and to repeal Sections 69510, 69510.5, and 69510.6 of, the Government Code, to amend Section 1328 of the Penal Code, to amend Sections 1513.1, 1851, and 1851.5 of the Probate Code, and to amend Sections 213.5 and 827 Section 213.5 of the Welfare and Institutions Code, relating to courts, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 3028, as amended, Committee on Judiciary. Court procedures.

~~(1) Existing law defines and regulates the activities of a legal document assistant and unlawful detainer assistant. Existing law requires a legal document assistant or unlawful detainer assistant to register in the county in which his or her principal place of business is located and restricts the type of information that he or she may provide for compensation. Existing law exempts from this regulation certain persons, including immigration consultants, registered process servers, and providers of services that are regulated by federal law. Existing law prescribes minimum qualifications to register as a legal document assistant or unlawful detainer assistant.~~

~~Existing law requires an applicant for registration as a legal document assistant or unlawful detainer assistant to be denied if, among other things, the applicant has suffered certain criminal convictions. Existing law requires each county to maintain a register of legal document assistants and unlawful detainer assistants. Existing law proscribes certain fraudulent conduct by a legal document assistant or unlawful detainer assistant. Existing law makes a violation of certain of its provisions by a legal document assistant or unlawful detainer assistant a misdemeanor.~~

~~Existing law provides for the repeal of these provisions on January 1, 2003, or the date the Director of the Department of Consumer Affairs suspends those requirements, whichever first occurs.~~

~~This bill instead would revise these requirements, as specified, and make them operative indefinitely and expand the criminal penalties. By extending indefinitely and expanding the definition of a crime, and extending indefinitely the duties regarding the registration of legal document assistants and unlawful detainer assistants applicable to counties, the bill would impose a state-mandated local program.~~

~~The bill would also revise the bonding requirements and impose new advertising requirements under these provisions.~~

~~(2) Existing law authorizes a person who has suffered harassment, as defined, to seek a temporary restraining order and an injunction prohibiting the harassment. Existing law authorizes the court, on a showing of good cause, to issue a temporary restraining order which protects other named family or household members who reside with the person.~~

This bill also would authorize the court to issue an injunction which protects other named family or household members who reside with the person who is being subject to harassment under those circumstances.

~~(3)~~

(2) Under existing law, any employer, whose employee has suffered unlawful violence or a credible threat of violence from any individual, that can reasonably be construed to be carried out or to have been carried out at the workplace, may seek a temporary restraining order and an injunction on behalf of the employee prohibiting further unlawful violence or threats of violence by that individual. Existing law authorizes the court, on a showing of good cause, to issue a temporary restraining order which protects other named family or household members who reside with the person.

This bill also would authorize the court to issue an injunction which protects other named family or household members who reside with the person who is being subject to that violence under those circumstances.

~~(4)~~

(3) Existing law authorizes referees to hear trials in specified instances. Existing law requires the Judicial Council to collect information and report to the Legislature by January 1, 2003, regarding fees paid by the parties for the use of referees.

This bill would extend the reporting requirement to July 1, 2003.

~~(5)~~

(4) Existing law provides for the service of a responsible party if service of a subpoena is to be made on a minor.

This bill would also require service of the subpoena to be made upon the designated agent for service at the county child welfare department or probation department if the minor meets specified criteria.

(5) Under existing law, in effect until January 1, 2003, the members of the board of directors of a for-profit corporation, nonprofit public benefit corporation, nonprofit mutual benefit corporation, and nonprofit religious corporation may participate in a meeting through use of electronic video screen communication or similar communications equipment, as long as certain conditions are met such as all members participating in the meeting are able to communicate with all other members concurrently, and participation in a meeting under these circumstances constitutes presence in person at that meeting.

This bill would extend the operation of these provisions to January 1, 2004.

(6) Existing law requires a report of a child custody evaluator to be filed with the clerk of the court in which a contested custody or visitation rights hearing will be conducted and served on the parties and their attorneys at least 10 days before the hearing.

This bill also would require that report to be served on any counsel appointed, as specified, for the child.

(7) Existing law establishes the Trial Court Trust Fund and the Trial Court Improvement Fund, and provides for the apportionment of the moneys in these funds.

This bill would ~~make an appropriation by authorizing~~ *authorize* the Judicial Council to ~~authorize the direct payment or reimbursement, or both of actual costs from the Trial Court Trust Fund for trial court programs, and requiring the Judicial Council at least quarterly to request the Controller's office to transfer amounts from these funds as a reimbursement to the support appropriation for these programs~~ *contract costs, and other services to one or more participating courts upon appropriation of funding for these purposes in the annual Budget Act, as specified.* The bill would also require the Judicial Council to file specified reports and establish certain procedures in this regard.

(8) Existing law provides for the retirement of judicial employees, as specified.

This bill would provide that if the Chief Justice of the California Supreme Court, by formal action, determines that because of an impending curtailment of, or change in the manner of performing, judicial branch services, the best interests of the state would be served by encouraging the retirement of judicial branch state employees from the Administrative Office of the Courts, the Supreme Court, the Courts of Appeal, or the Habeas Corpus Resource Center and the sufficient economies could be realized to offset any costs to the judicial branch resulting from this action, an additional two years of service shall be credited to the affected members if specified conditions exist.

(9) Existing law establishes a salary increase for presiding judges of superior courts with 4 or more judges. Under the Constitution, laws that set the salaries of elected state offices constitute appropriations.

This bill would make an appropriation by establishing a 2% salary increase, operative January 2, 2003, for presiding judges of superior courts with 2 or 3 judges.

(10) Existing law provides that any officer whose office is created by the California Constitution and who is made a member of a state board, commission, or committee, or of the governing body of any state

agency or authority may designate a deputy of his or her office holding a specified position to act as the member in the constitutional officer's place and stead, to all intents and purposes as though the constitutional officer were personally present. Existing law expressly provides the circumstances under which the Lieutenant Governor, Attorney General, and Superintendent of Public Instruction may designate a deputy of his or her office for that purpose.

This bill would expressly provide that the Chief Justice of the California Supreme Court may designate a judge or employee of a state court or an employee of the Administrative Office of the Courts to act as a deputy for those purposes.

~~(11) Existing law authorizes the Judicial Council to establish a tax-exempt public benefit nonprofit corporation, or other tax-exempt entity, for the purposes of undertaking or funding any survey, study, publication, proceeding, or other activity authorized by law to be undertaken by the Judicial Council.~~

~~This bill would authorize employees of the Administrative Office of the Courts to establish, staff, and maintain a tax-exempt public benefit nonprofit corporation, or other tax-exempt entity, if the activities are exclusively directed at research and educational programs authorized by the Judicial Council for the support of the judiciary.~~

~~(12)~~

(11) Under existing law, a majority of the judges of a superior court may order sessions of the court to be held at any place where a municipal court holds sessions within the county or, in a county in which there is no municipal court, where there is a court facility.

This bill instead would require each trial court to determine the number and location of sessions of the court, taking into consideration the employees and facilities of the court. The bill would authorize the session to be held outside the county of the court under certain circumstances.

~~(13)~~

(12) Existing law requires a county to assess the parent, parents, or other person charged with the support and maintenance of a proposed ward of the juvenile court, and the guardian, proposed guardian, or the estate of the proposed ward, for county expenses for any investigation or review conducted by the court investigator, probation officer, or domestic relations investigator.

This bill would require a court or a county to make that assessment with respect to the ward or proposed ward, and specify that the court



may order reimbursement to the court or to the county in the amount of the assessment, unless the court finds that all or any part of the assessment would impose a hardship on the ward or the ward's estate.

~~(14)~~

(13) Existing law requires each county to assess each conservatee in the county for any investigation or review conducted by a court investigator at county expense with respect to that person, but specifies that court may order reimbursement to the county for the cost of the investigations, unless the court finds that all or any part of the assessment would impose a hardship on the estate.

This bill would transfer this duty to the court and would make related changes.

~~(15)~~

(14) Existing law requires that any amount otherwise owing to a county pursuant to Article XIII B of the California Constitution and related statutory provisions for costs incurred by the county for the costs of investigation or review by court investigators be reduced by the amount of any assessments actually collected during the fiscal year.

This bill would delete this provision.

~~(16)~~

(15) By requiring new duties of the courts, the bill would impose a state-mandated local program.

~~(17)~~

(16) Existing law provides that after a petition has been filed to declare a child a dependent child of the juvenile court, and after a petition has been filed to declare a child a ward of the juvenile court, court may issue ex parte orders enjoining any person from molesting, attacking, threatening, sexually assaulting, stalking, or battering the child, among other things.

Existing law provides that if a temporary restraining order is granted without notice, the matter is required to be made returnable on an order requiring cause to be shown why the order should not be granted, on the earliest day that the business of the court will permit, but not later than 15 days or, if good cause appears to the court, 20 days from the date the temporary restraining order is granted. Existing law authorizes the court, on the motion of the person seeking the restraining order, or on its own motion, to shorten the time for service on the person to be restrained of the order to show cause.

This bill would permit the court, upon its own motion or the filing of an affidavit by the person seeking the restraining order, to find that



the person to be restrained could not be served within the time required by law and to reissue an order previously issued and dissolved by the court for failure to serve the person to be restrained.

(18)

~~Existing law provides that the juvenile case file of a minor may only be inspected by certain persons, including the attorneys for the parties.~~

~~This bill would authorize those files to be inspected by attorneys who represent persons who are, or have been, the subjects of petitions filed in juvenile court, as specified. The bill would also incorporate additional changes to Section 827 of the Welfare and Institutions Code proposed by SB 1704, contingent upon its prior enactment.~~

(19)

(17) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: ²/₃. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Chapter 5.5 (commencing with Section 6400) of~~
- 2 ~~Division 3 of the Business and Professions Code is repealed.~~
- 3 ~~SEC. 2. Chapter 5.5 (commencing with Section 6400) is~~
- 4 ~~added to Division 3 of the Business and Professions Code, to read:~~
- 5

~~CHAPTER 5.5. — LEGAL DOCUMENT ASSISTANTS AND UNLAWFUL
DETAINER ASSISTANTS~~

~~Article 1. — General Provisions~~

~~6400. (a) “Unlawful detainer assistant” means any individual who for compensation renders assistance or advice in the prosecution or defense of an unlawful detainer claim or action, including any bankruptcy petition that may affect the unlawful detainer claim or action.~~

~~(b) “Unlawful detainer claim” means a proceeding, filing, or action affecting rights or liabilities of any person that arises under Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure and that contemplates an adjudication by a court.~~

~~(c) “Legal document assistant” means:~~

~~(1) Any person who is not exempted under Section 6401 and who provides, or assists in providing, or offers to provide, or offers to assist in providing, for compensation, any self-help service to a member of the public who is representing himself or herself in a legal matter, or who holds himself or herself out as someone who offers that service or has that authority. This paragraph does not apply to any individual whose assistance consists merely of secretarial or receptionist services.~~

~~(2) A corporation, partnership, association, or other entity that employs or contracts with any person not exempted under Section 6401 who, as part of his or her responsibilities, provides, or assists in providing, or offers to provide, or offers to assist in providing, for compensation, any self-help service to a member of the public who is representing himself or herself in a legal matter or holds himself or herself out as someone who offers that service or has that authority. This paragraph does not apply to an individual whose assistance consists merely of secretarial or receptionist services.~~

~~(d) “Self-help service” means all of the following:~~

~~(1) Completing legal documents in a ministerial manner, selected by a person who is representing himself or herself in a legal matter, by typing or otherwise completing the documents at the person’s specific direction.~~

~~(2) Providing general published factual information that has been written or approved by an attorney, pertaining to legal procedures, rights, or obligations to a person who is representing himself or herself in a legal matter, to assist the person in representing himself or herself. This service in and of itself, shall not require registration as a legal document assistant.~~

~~(3) Making published legal documents available to a person who is representing himself or herself in a legal matter.~~

~~(4) Filing and serving legal forms and documents at the specific direction of a person who is representing himself or herself in a legal matter.~~

~~(e) “Compensation” means money, property, or anything else of value.~~

~~(f) A legal document assistant, including any legal document assistant employed by a partnership or corporation, may not provide any self-help service for compensation, unless the legal document assistant is registered in the county in which his or her principal place of business is located and in any other county in which he or she performs acts for which registration is required.~~

~~(g) A legal document assistant may not provide any kind of advice, explanation, opinion, or recommendation to a consumer about possible legal rights, remedies, defenses, options, selection of forms, or strategies. A legal document assistant shall complete documents only in the manner prescribed by paragraph (1) of subdivision (d).~~

~~6401. This chapter does not apply to any person engaged in any of the following occupations, provided that the person does not also perform the duties of a legal document assistant in addition to those occupations:~~

~~(a) Any government employee who is acting in the course of his or her employment.~~

~~(b) A member of the State Bar of California, or his or her employee, paralegal, or agent, or an independent contractor while acting on behalf of a member of the State Bar.~~

~~(c) Any employee of a nonprofit, tax-exempt corporation who either assists clients free of charge or is supervised by a member of the State Bar of California who has malpractice insurance.~~

~~(d) A licensed real estate broker or licensed real estate salesperson, as defined in Chapter 3 (commencing with Section 40130) of Part 1 of Division 4, who acts pursuant to subdivision~~

~~(b) of Section 10131 on an unlawful detainer claim as defined in subdivision (b) of Section 6400, and who is a party to the unlawful detainer action.~~

~~(e) An immigration consultant, as defined in Chapter 19.5 (commencing with Section 22441) of Division 8.~~

~~(f) A person registered as a process server under Chapter 16 (commencing with Section 22350) or a person registered as a professional photocopier under Chapter 20 (commencing with Section 22450) of Division 8.~~

~~(g) A person who provides services relative to the preparation of security instruments or conveyance documents as an integral part of the provision of title or escrow service.~~

~~(h) A person who provides services that are regulated by federal law.~~

~~(i) A person who is employed by, and provides services to, a supervised financial institution, holding company, subsidiary, or affiliate.~~

~~6401.5. This chapter does not sanction, authorize, or encourage the practice of law by nonlawyers. Registration under this chapter, or an exemption from registration, does not immunize any person from prosecution or liability pursuant to Section 6125, 6126, 6126.5, or 6127.~~

~~6401.6. A legal document assistant may not provide service to a client who requires assistance that exceeds the definition of self-help service in subdivision (d) of Section 6400, and shall inform the client that the client requires the services of an attorney.~~

~~Article 2. Registration Procedures~~

~~6402. A legal document assistant or unlawful detainer assistant shall be registered pursuant to this chapter by the county clerk in the county in which his or her principal place of business is located (deemed primary registration), and in any other county in which he or she performs acts for which registration is required (deemed secondary registration). Any registration in a county, other than the county of the person's place of business, shall state the person's principal place of business and provide proof that the registrant has satisfied the bonding requirement of Section 6405. No person who has been disbarred or suspended from the practice of law pursuant to Article 6 (commencing with Section 6100) of~~

Chapter 4 may, during the period of any disbarment or suspension, register as a legal document assistant or unlawful detainer assistant. The Department of Consumer Affairs shall develop the application required to be completed by a person for purposes of registration as a legal document assistant. The application shall specify the types of proof that the applicant shall provide to the county clerk in order to demonstrate the qualifications and requirements of Section 6402.1.

6402.1. To be eligible to apply for registration under this chapter as a legal document assistant, the applicant shall possess at least one of the following:

(a) A high school diploma or general equivalency diploma, and either a minimum of two years of law-related experience under the supervision of a licensed attorney, or a minimum of two years experience, prior to January 1, 1999, providing self-help service.

(b) A baccalaureate degree in any field and either a minimum of one year of law-related experience under the supervision of a licensed attorney, or a minimum of one year of experience, prior to January 1, 1999, providing self-help service.

(c) A certificate of completion from a paralegal program that is institutionally accredited but not approved by the American Bar Association, that requires successful completion of a minimum of 24 semester units, or the equivalent, in legal specialization courses.

(d) A certificate of completion from a paralegal program approved by the American Bar Association.

6403. (a) The application for registration of a natural person shall contain all of the following statements about the applicant:

(1) Name, age, address, and telephone number.

(2) Whether he or she has been convicted of a felony, or of a misdemeanor under Section 6126 or 6127, or found liable under Section 6126.5.

(3) Whether he or she has been held liable in a civil action by final judgment or entry of a stipulated judgment, if the action alleged fraud, the use of an untrue or misleading representation, or the use of an unfair, unlawful, or deceptive business practice.

(4) Whether he or she has ever been convicted of a misdemeanor violation of this chapter.

(5) Whether he or she has had a civil judgment entered against him or her in an action arising out of the applicant's negligent,

1 reckless, or willful failure to properly perform his or her obligation
2 as a legal document assistant or unlawful detainer assistant.

3 ~~(6) Whether he or she has had a registration revoked pursuant~~
4 ~~to Section 6413.~~

5 ~~(7) Whether this is a primary or secondary registration. If it is~~
6 ~~a secondary registration, the county in which the primary~~
7 ~~registration is filed.~~

8 ~~(b) The application for registration of a natural person shall be~~
9 ~~accompanied by the display of personal identification, such as a~~
10 ~~California driver's license, birth certificate, or other identification~~
11 ~~acceptable to the county clerk to adequately determine the identity~~
12 ~~of the applicant.~~

13 ~~(c) The application for registration of a partnership or~~
14 ~~corporation shall contain all of the following statements about the~~
15 ~~applicant:~~

16 ~~(1) The names, ages, addresses, and telephone numbers of the~~
17 ~~general partners or officers.~~

18 ~~(2) Whether the general partners or officers have ever been~~
19 ~~convicted of a felony, or a misdemeanor under Section 6126 or~~
20 ~~6127 or found liable under Section 6126.5.~~

21 ~~(3) Whether the general partners or officers have ever been held~~
22 ~~liable in a civil action by final judgment or entry of a stipulated~~
23 ~~judgment, if the action alleged fraud, the use of an untrue or~~
24 ~~misleading representation, or the use of an unfair, unlawful, or~~
25 ~~deceptive business practice.~~

26 ~~(4) Whether the general partners or officers have ever been~~
27 ~~convicted of a misdemeanor violation of this chapter.~~

28 ~~(5) Whether the general partners or officers have had a civil~~
29 ~~judgment entered against them in an action arising out of a~~
30 ~~negligent, reckless, or willful failure to properly perform the~~
31 ~~obligations of a legal document assistant or unlawful detainer~~
32 ~~assistant.~~

33 ~~(6) Whether the general partners or officers have ever had a~~
34 ~~registration revoked pursuant to Section 6413.~~

35 ~~(7) Whether this is a primary or secondary registration. If it is~~
36 ~~a secondary registration, the county in which the primary~~
37 ~~registration is filed.~~

38 ~~(d) The applications made under this section shall be made~~
39 ~~under penalty of perjury.~~

1 ~~6404. An applicant shall pay a fee of one hundred~~
2 ~~seventy-five dollars (\$175) to the county clerk at the time he or she~~
3 ~~files an application for initial registration, including a primary or~~
4 ~~secondary registration, or renewal of registration. An additional~~
5 ~~fee of ten dollars (\$10) shall be paid to the county clerk for each~~
6 ~~additional identification card.~~

7 ~~6405. (a) (1) An application for a certificate of registration~~
8 ~~by an individual shall be accompanied by a bond of twenty-five~~
9 ~~thousand dollars (\$25,000) executed by a corporate surety~~
10 ~~qualified to do business in this state and conditioned upon~~
11 ~~compliance with this chapter. The total aggregate liability on the~~
12 ~~bond shall be limited to twenty-five thousand dollars (\$25,000).~~
13 ~~An application for secondary registration shall meet all of the~~
14 ~~requirements of this subdivision, except that in place of posting~~
15 ~~another original bond or cash deposit, the applicant shall include~~
16 ~~a certified copy of the bond or cash deposit posted in the county~~
17 ~~in which the applicant filed the primary registration.~~

18 ~~(2) An application for a certificate of registration by a~~
19 ~~partnership or corporation shall be accompanied by a bond~~
20 ~~executed by a corporate surety qualified to do business in this state~~
21 ~~and conditioned upon compliance with this chapter in the~~
22 ~~following amount, based on the total number of legal document~~
23 ~~assistants and unlawful detainer assistants employed by the~~
24 ~~partnership or corporation:~~

25 ~~(A) Twenty-five thousand dollars (\$25,000) for one to four~~
26 ~~assistants.~~

27 ~~(B) Fifty thousand dollars (\$50,000) for five to nine assistants.~~

28 ~~(C) One hundred thousand dollars (\$100,000) for 10 or more~~
29 ~~assistants. An application for a certificate of registration by a~~
30 ~~person employed by a partnership or corporation shall be~~
31 ~~accompanied by a bond of at least twenty-five thousand dollars~~
32 ~~(\$25,000) only if the partnership or corporation has not posted a~~
33 ~~bond in the amount required by this subdivision. An application~~
34 ~~for secondary registration shall meet all of the requirements of this~~
35 ~~subdivision, except that in place of posting another original bond~~
36 ~~or cash deposit, the applicant shall include a certified copy of the~~
37 ~~bond or cash deposit posted in the county in which the applicant~~
38 ~~filed the primary registration.~~

39 ~~(3) If a partnership or corporation increases the number of~~
40 ~~assistants it employs above the number stated in its application for~~

~~1 a certificate of registration, the partnership or corporation shall
2 promptly increase the bond to the applicable amount in
3 subparagraphs (B) or (C) of paragraph (2) based on the actual
4 number of assistants it employs, and shall promptly submit the
5 increased bond to the county clerk.~~

~~6 (4) The bond may be terminated pursuant to Section 995.440
7 of, and Article 13 (commencing with Section 996.310) of Chapter
8 2 of Title 14 of Part 2 of, the Code of Civil Procedure.~~

~~9 (b) The county clerk shall, upon filing of the bond, deliver the
10 bond forthwith to the county recorder for recording. The recording
11 fee specified in Section 27361 of the Government Code shall be
12 paid by the registrant. The fee may be paid to the county clerk who
13 shall transmit it to the recorder.~~

~~14 (c) The fee for filing, canceling, revoking, or withdrawing the
15 bond is seven dollars (\$7).~~

~~16 (d) The county recorder shall record the bond and any notice of
17 cancellation, revocation, or withdrawal of the bond, and shall
18 thereafter mail the instrument, unless specified to the contrary, to
19 the person named in the instrument and, if no person is named, to
20 the party leaving it for recording. The recording fee specified in
21 Section 27361 of the Government Code for notice of cancellation,
22 revocation, or withdrawal of the bond shall be paid to the county
23 clerk, who shall transmit it to the county recorder.~~

~~24 (e) In lieu of the bond required by subdivision (a), a registrant
25 may deposit the amount required by subdivision (a) in cash with
26 the county clerk.~~

~~27 (f) If the certificate is revoked, the bond or cash deposit shall
28 be returned to the bonding party or depositor subject to subdivision
29 (g) and the right of a person to recover against the bond or cash
30 deposit under Section 6412.~~

~~31 (g) The county clerk may retain a cash deposit until the
32 expiration of three years from the date the registrant has ceased to
33 do business, or three years from the expiration or revocation date
34 of the registration, in order to ensure there are no outstanding
35 claims against the deposit. A judge of a municipal or superior court
36 may order the return of the deposit prior to the expiration of three
37 years upon evidence satisfactory to the judge that there are no
38 outstanding claims against the deposit.~~

~~39 (h) The bond required by this section shall be in favor of the
40 State of California for the benefit of any person who is damaged~~

1 ~~as a result of the violation of this chapter or by the fraud,~~
2 ~~dishonesty, or incompetency of an individual, partnership, or~~
3 ~~corporation registered under this chapter. The bond required by~~
4 ~~this section shall also indicate the name of the county in which it~~
5 ~~will be filed.~~

6 ~~6406. (a) If granted, a certificate of registration shall be~~
7 ~~effective for a period of two years, until the date the bond expires,~~
8 ~~or until the total number of legal document assistants and unlawful~~
9 ~~detainer assistants employed by a partnership or corporation~~
10 ~~exceeds the number allowed for the amount of the bond in effect,~~
11 ~~whichever occurs first. Thereafter, a registrant shall file a new~~
12 ~~certificate of registration or a renewal of the certificate of~~
13 ~~registration and pay the fee required by Section 6404, and increase~~
14 ~~the amount of the bond if required to comply with subdivision (a)~~
15 ~~of Section 6405. A certificate of registration that is currently~~
16 ~~effective may be renewed up to 60 days prior to its expiration date~~
17 ~~and the effective date of the renewal shall be the date the current~~
18 ~~registration expires. The renewal shall be effective for a period of~~
19 ~~two years from the effective date or until the expiration date of the~~
20 ~~bond, or until the total number of legal document assistants and~~
21 ~~unlawful detainer assistants employed by a partnership or~~
22 ~~corporation exceeds the number allowed for the dollar amount of~~
23 ~~the bond in effect, whichever occurs first.~~

24 ~~(b) Except as provided in subdivisions (d) to (f), inclusive, an~~
25 ~~applicant shall be denied registration or renewal of registration if~~
26 ~~the applicant has been any of the following:~~

27 ~~(1) Convicted of a felony, or of a misdemeanor under Section~~
28 ~~6126 or 6127, or found liable under Section 6126.5.~~

29 ~~(2) Held liable in a civil action by final judgment or entry of a~~
30 ~~stipulated judgment, if the action alleged fraud, or the use of an~~
31 ~~untrue or misleading representation, or the use of an unfair,~~
32 ~~unlawful, or deceptive business practice.~~

33 ~~(3) Convicted of a misdemeanor violation of this chapter.~~

34 ~~(4) Had a civil judgment entered against him or her in an action~~
35 ~~arising out of the applicant's negligent, reckless, or willful failure~~
36 ~~to properly perform his or her obligation as a legal document~~
37 ~~assistant or unlawful detainer assistant.~~

38 ~~(5) Had his or her registration revoked pursuant to Section~~
39 ~~6413.~~

~~(c) If the county clerk finds that the applicant has failed to demonstrate having met the requisite requirements of Section 6402 or 6402.1, or that any of the paragraphs of subdivision (b) apply, the county clerk, within three business days of submission of the application and fee, shall return the application and fee to the applicant with a notice to the applicant indicating the reason for the denial and the method of appeal.~~

~~(d) The denial of an application may be appealed by the applicant by submitting, to the director, the following:~~

~~(1) The completed application and notice from the county clerk specifying the reasons for the denial of the application.~~

~~(2) A copy of any final judgment or order that resulted from any conviction or civil judgment listed on the application.~~

~~(3) Any relevant information the applicant wishes to include for the record.~~

~~(e) The director shall order the applicant's certificate of registration to be granted if the director determines that the issuance of a certificate of registration is not likely to expose consumers to a significant risk of harm based on a review of the application and any other information relating to the applicant's unlawful act or unfair practice described in paragraphs (1) to (5), inclusive, of subdivision (b). The director shall order the applicant's certificate of registration to be denied if the director determines that issuance of a certificate of registration is likely to expose consumers to a significant risk of harm based on a review of the application and any other information relating to the applicant's unlawful act or unfair practice described in paragraphs (1) to (5), inclusive, of subdivision (b). The director shall send to the applicant and the county clerk a written decision listing the reasons registration shall be granted or denied within 30 days of the submission of the matter.~~

~~(f) If the director orders that the certificate of registration be granted, the applicant may resubmit the application, with the appropriate application fee and the written decision of the director. The county clerk shall grant the certificate of registration to the applicant within three business days of being supplied this information.~~

~~6407. (a) The county clerk shall maintain a register of legal document assistants, and a register of unlawful detainer assistants, assign a unique number to each legal document assistant, or~~

unlawful detainer assistant, and issue an identification card to each one. Additional cards for employees of legal document assistants or unlawful detainer assistants shall be issued upon the payment of ten dollars (\$10) for each card. Upon renewal of registration, the same number shall be assigned, provided there is no lapse in the period of registration.

(b) The identification card shall be a card 3½ inches by 2¼ inches, and shall contain at the top, the title “Legal Document Assistant” or “Unlawful Detainer Assistant,” as appropriate, followed by the registrant’s name, address, registration number, date of expiration, and county of registration. It shall also contain a photograph of the registrant in the lower left corner. The front of the card, above the title, shall also contain the following statement in 12-point boldface type: “This person is not a lawyer.” The front of the card, at the bottom, shall also contain the following statement in 12-point boldface type: “The county clerk has not evaluated this person’s knowledge, experience, or services.”

Article 3.—Conduct of Business and Prohibited Acts

6408.—The registrant’s name, business address, telephone number, registration number, expiration date of the registration, and county of registration shall appear in any solicitation or advertisement, and on any papers or documents prepared or used by the registrant, including, but not limited to, contracts, letterhead, business cards, correspondence, documents, forms, claims, petitions, checks, receipts, money orders, and pleadings.

6408.5.—(a) All advertisements or solicitations published, distributed, or broadcast offering legal document assistant or unlawful detainer assistant services shall include the following statement: “I am not an attorney. I can only provide self-help services at your specific direction.” This subdivision does not apply to classified or “yellow pages” listings in a telephone or business directory of three lines or less that state only the name, address, and telephone number of the legal document assistant or unlawful detainer assistant.

(b) If the advertisement or solicitation is in a language other than English, the statement required by subdivision (a) shall be in the same language as the advertisement or solicitation.

~~6409. No legal document assistant or unlawful detainer assistant shall retain in his or her possession original documents of a client. A legal document assistant or an unlawful detainer assistant shall immediately return all of a client's original documents to the client in any one or more of the following circumstances:~~

~~(a) If the client so requests at any time.~~

~~(b) If the written contract required by Section 6410 is not executed or is rescinded, canceled, or voided for any reason.~~

~~(c) If the services described pursuant to paragraph (1) of subdivision (b) of Section 6410 have been completed.~~

~~6410. (a) Every legal document assistant or unlawful detainer assistant who enters into a contract or agreement with a client to provide services shall, prior to providing any services, provide the client with a written contract, the contents of which shall be prescribed by regulations adopted by the Department of Consumer Affairs.~~

~~(b) The written contract shall include all of the following provisions:~~

~~(1) The services to be performed.~~

~~(2) The costs of the services to be performed.~~

~~(3) There shall be printed on the face of the contract in 12-point boldface type a statement that the legal document assistant or unlawful detainer assistant is not an attorney and may not perform the legal services that an attorney performs.~~

~~(4) The contract shall contain a statement in 12-point boldface type that the county clerk has not evaluated or approved the registrant's knowledge or experience, or the quality of the registrant's services.~~

~~(5) The contract shall contain a statement in 12-point boldface type that the consumer may obtain information regarding free or low-cost representation through a local bar association or legal aid foundation and that the consumer may contact local law enforcement, a district attorney, or a legal aid foundation if the consumer believes that he or she has been a victim of fraud, the unauthorized practice of law, or any other injury.~~

~~(6) The contract shall contain a statement in 12-point boldface type that a legal document assistant or unlawful detainer assistant is not permitted to engage in the practice of law, including providing any kind of advice, explanation, opinion, or~~

1 ~~recommendation to a consumer about possible legal rights,~~
2 ~~remedies, defenses, options, selection of forms, or strategies.~~

3 ~~(c) The contract shall be written both in English and in any~~
4 ~~other language comprehended by the client and principally used~~
5 ~~in any oral sales presentation or negotiation leading to execution~~
6 ~~of the contract. The legal document assistant or the unlawful~~
7 ~~detainer assistant is responsible for translating the contract into the~~
8 ~~language principally used in any oral sales presentation or~~
9 ~~negotiation leading to the execution of the contract.~~

10 ~~(d) Failure of a legal document assistant or unlawful detainer~~
11 ~~assistant to comply with subdivisions (a), (b), and (c) shall make~~
12 ~~the contract or agreement for services voidable at the option of the~~
13 ~~client. Upon the voiding of the contract, the legal document~~
14 ~~assistant or unlawful detainer assistant shall immediately return in~~
15 ~~full any fees paid by the client.~~

16 ~~(e) In addition to any other right to rescind, the client shall have~~
17 ~~the right to rescind the contract within 24 hours of the signing of~~
18 ~~the contract. The client may cancel the contract by giving the legal~~
19 ~~document assistant or the unlawful detainer assistant any written~~
20 ~~statement to the effect that the contract is canceled. If the client~~
21 ~~gives notice of cancellation by mail addressed to the legal~~
22 ~~document assistant or unlawful detainer assistant, with first-class~~
23 ~~postage prepaid, cancellation is effective upon the date indicated~~
24 ~~on the postmark. Upon the voiding or rescinding of the contract or~~
25 ~~agreement for services, the legal document assistant or unlawful~~
26 ~~detainer assistant shall immediately return to the client any fees~~
27 ~~paid by the client, except fees for services that were actually,~~
28 ~~necessarily, and reasonably performed on the client's behalf by the~~
29 ~~legal document assistant or unlawful detainer assistant with the~~
30 ~~client's knowing and express written consent. The requirements of~~
31 ~~this subdivision shall be conspicuously set forth in the written~~
32 ~~contract.~~

33 ~~6410.5.—(a) It is unlawful for any legal document assistant or~~
34 ~~unlawful detainer assistant, in the first in-person or telephonic~~
35 ~~solicitation of a prospective client of legal document or unlawful~~
36 ~~detainer assistant services, to fail to state all of the following~~
37 ~~clearly, affirmatively, and expressly, before making any other~~
38 ~~statement, except statements required by law in telephonic or~~
39 ~~home solicitations, and a greeting, or asking the prospective client~~
40 ~~any questions:~~

1 ~~(1) The identity of the person making the solicitation.~~

2 ~~(2) The trade name of the person represented by the person~~
3 ~~making the solicitation, if any.~~

4 ~~(3) The kind of services being offered for sale.~~

5 ~~(4) The statement: “‘I am not’ or ‘Neither I nor (name of~~
6 ~~corporation or partnership that is offering legal document assistant~~
7 ~~or unlawful detainer assistant services) is’ an attorney. I/we cannot~~
8 ~~represent you in court, advise you about your legal rights or the~~
9 ~~law, or select legal forms for you.”~~

10 ~~(b) If the first contact between a legal document assistant or an~~
11 ~~unlawful detainer assistant and a prospective client is initiated by~~
12 ~~the prospective client, it is unlawful for the legal document~~
13 ~~assistant or the unlawful detainer assistant to orally fail to state~~
14 ~~clearly, affirmatively, and expressly, during that first contact, and~~
15 ~~before offering any contract or agreement for services to the~~
16 ~~prospective client, the following: “‘I am not’ or ‘Neither I nor~~
17 ~~(name of corporation or partnership that is offering legal document~~
18 ~~assistant or unlawful detainer assistant services) is’ an attorney.~~
19 ~~I/we cannot give you legal advice. I/we can only prepare your~~
20 ~~document at your specific direction.”~~

21 ~~6411. — It is unlawful for any person engaged in the business or~~
22 ~~acting in the capacity of a legal document assistant or unlawful~~
23 ~~detainer assistant to do any of the following:~~

24 ~~(a) Make false or misleading statements to the consumer~~
25 ~~concerning the subject matter, legal issues, or self-help service~~
26 ~~being provided by the legal document assistant or unlawful~~
27 ~~detainer assistant.~~

28 ~~(b) Make any guarantee or promise to a client or prospective~~
29 ~~client, unless the guarantee or promise is in writing and the legal~~
30 ~~document assistant or unlawful detainer assistant has a reasonable~~
31 ~~factual basis for making the guarantee or promise.~~

32 ~~(c) Make any statement that the legal document assistant or~~
33 ~~unlawful detainer assistant can or will obtain favors or has special~~
34 ~~influence with a court, or a state or federal agency.~~

35 ~~(d) Provide assistance or advice which constitutes the unlawful~~
36 ~~practice of law pursuant to Section 6125, 6126, or 6127.~~

37 ~~(e) Engage in the unauthorized practice of law, including, but~~
38 ~~not limited to, giving any kind of advice, explanation, opinion, or~~
39 ~~recommendation to a consumer about possible legal rights,~~
40 ~~remedies, defenses, options, selection of forms, or strategies. A~~

1 ~~legal document assistant shall complete documents only in the~~
2 ~~manner prescribed by subdivision (d) of Section 6400.~~

3 ~~(f) Use in the person's business name or advertising the words~~
4 ~~"legal aid," "legal services," or any similar term that has the~~
5 ~~capacity, tendency, or likelihood to mislead members of the public~~
6 ~~about that person's status as a nonprofit corporation or~~
7 ~~governmentally supported organization offering legal services~~
8 ~~without charge to indigent people, or employing members of the~~
9 ~~State Bar to provide those services.~~

10 ~~6412. (a) Any owner or manager of residential or~~
11 ~~commercial rental property, tenant, or other person who is~~
12 ~~awarded damages in any action or proceeding for injuries caused~~
13 ~~by the acts of a registrant while in the performance of his or her~~
14 ~~duties as a legal document assistant or unlawful detainer assistant~~
15 ~~may recover damages from the bond or cash deposit required by~~
16 ~~Section 6405.~~

17 ~~(b) If there has been a recovery against a bond or cash deposit~~
18 ~~under subdivision (a) and the registration has not been revoked~~
19 ~~pursuant to Section 6413, the registrant shall file a new bond or~~
20 ~~deposit an additional amount of cash within 30 days to reinstate the~~
21 ~~bond or cash deposit to the amount required by Section 6405. If the~~
22 ~~registrant does not file a bond, or deposit this amount within 30~~
23 ~~days, his or her certificate of registration shall be revoked.~~

24 ~~6412.1. (a) Any person injured by the unlawful act of a legal~~
25 ~~document assistant or unlawful detainer assistant shall retain all~~
26 ~~rights and remedies cognizable under law. The penalties, relief,~~
27 ~~and remedies provided in this chapter are not exclusive, and do not~~
28 ~~affect any other penalties, relief, and remedies provided by law.~~

29 ~~(b) Any person injured by a violation of this chapter by a legal~~
30 ~~document assistant or unlawful detainer assistant may file a~~
31 ~~complaint and seek redress in any superior court for injunctive~~
32 ~~relief, restitution, and damages. Attorney's fees shall be awarded~~
33 ~~to the prevailing plaintiff. A claim under this chapter may be~~
34 ~~maintained in small claims court, if the claim and relief sought are~~
35 ~~within the small claims court's jurisdiction.~~

36 ~~6412.5. A legal document assistant or an unlawful detainer~~
37 ~~assistant may neither seek nor obtain a client's waiver of any of the~~
38 ~~provisions of this chapter. Any waiver of the provisions of this~~
39 ~~chapter is contrary to public policy, and is void and unenforceable.~~

~~6413. The county clerk shall revoke the registration of a legal document assistant or unlawful detainer assistant upon receipt of an official document or record stating that the registrant has been found guilty of the unauthorized practice of law pursuant to Section 6125, 6126, or 6127, has been found guilty of a misdemeanor violation of this chapter, has been found liable under Section 6126.5, or that a civil judgment has been entered against the registrant in an action arising out of the registrant's negligent, reckless, or willful failure to properly perform his or her obligation as a legal document assistant or unlawful detainer assistant. The county clerk shall be given notice of the disposition in any court action by the city attorney, district attorney, or plaintiff, as applicable. A registrant whose registration is revoked pursuant to this section may reapply for registration three years after the revocation.~~

~~6414. A registrant whose certificate is revoked shall be entitled to challenge the decision in a court of competent jurisdiction.~~

~~6415. A failure, by a person who engages in acts of a legal document assistant or unlawful detainer assistant, to comply with any of the requirements of Section 6401.6, 6402, 6408, or 6410; subdivision (a), (b), or (c) of Section 6411, or Section 6412.5 is a misdemeanor punishable by a fine of not less than one thousand dollars (\$1,000) or more than two thousand dollars (\$2,000), as to each client with respect to whom a violation occurs, or imprisonment for not more than one year, or by both that fine and imprisonment. Payment of restitution to a client shall take precedence over payment of a fine.~~

~~SEC. 3.~~

~~SECTION 1.~~ Section 228 of the Code of Civil Procedure is amended to read:

228. Challenges for general disqualification may be taken on one or both of the following grounds, and for no other:

(a) A want of any of the qualifications prescribed by this code to render a person competent as a juror.

(b) The existence of any incapacity which satisfies the court that the challenged person is incapable of performing the duties of a juror in the particular action without prejudice to the substantial rights of the challenging party.

~~SEC. 4.~~

1 *SEC. 2.* Section 527.6 of the Code of Civil Procedure is
2 amended to read:

3 527.6. (a) A person who has suffered harassment as defined
4 in subdivision (b) may seek a temporary restraining order and an
5 injunction prohibiting harassment as provided in this section.

6 (b) For the purposes of this section, “harassment” is unlawful
7 violence, a credible threat of violence, or a knowing and willful
8 course of conduct directed at a specific person that seriously
9 alarms, annoys, or harasses the person, and that serves no
10 legitimate purpose. The course of conduct must be such as would
11 cause a reasonable person to suffer substantial emotional distress,
12 and must actually cause substantial emotional distress to the
13 plaintiff.

14 As used in this subdivision:

15 (1) “Unlawful violence” is any assault or battery, or stalking
16 as prohibited in Section 646.9 of the Penal Code, but shall not
17 include lawful acts of self-defense or defense of others.

18 (2) “Credible threat of violence” is a knowing and willful
19 statement or course of conduct that would place a reasonable
20 person in fear for his or her safety, or the safety of his or her
21 immediate family, and that serves no legitimate purpose.

22 (3) “Course of conduct” is a pattern of conduct composed of
23 a series of acts over a period of time, however short, evidencing
24 a continuity of purpose, including following or stalking an
25 individual, making harassing telephone calls to an individual, or
26 sending harassing correspondence to an individual by any means,
27 including, but not limited to, the use of public or private mails,
28 interoffice mail, fax, or computer e-mail. Constitutionally
29 protected activity is not included within the meaning of “course
30 of conduct.”

31 (c) Upon filing a petition for an injunction under this section,
32 the plaintiff may obtain a temporary restraining order in
33 accordance with Section 527, except to the extent this section
34 provides a rule that is inconsistent. A temporary restraining order
35 may be issued with or without notice upon an affidavit that, to the
36 satisfaction of the court, shows reasonable proof of harassment of
37 the plaintiff by the defendant, and that great or irreparable harm
38 would result to the plaintiff. In the discretion of the court, and on
39 a showing of good cause, a temporary restraining order or
40 injunction issued under this section may include other named

1 family or household members who reside with the plaintiff. A
2 temporary restraining order issued under this section shall remain
3 in effect, at the court's discretion, for a period not to exceed 15
4 days, or, if the court extends the time for hearing under subdivision
5 (d), not to exceed 22 days, unless otherwise modified or terminated
6 by the court.

7 (d) Within 15 days, or, if good cause appears to the court, 22
8 days from the date the temporary restraining order is issued, a
9 hearing shall be held on the petition for the injunction. The
10 defendant may file a response that explains, excuses, justifies, or
11 denies the alleged harassment or may file a cross-complaint under
12 this section. At the hearing, the judge shall receive any testimony
13 that is relevant, and may make an independent inquiry. If the judge
14 finds by clear and convincing evidence that unlawful harassment
15 exists, an injunction shall issue prohibiting the harassment. An
16 injunction issued pursuant to this section shall have a duration of
17 not more than three years. At any time within the three months
18 before the expiration of the injunction, the plaintiff may apply for
19 a renewal of the injunction by filing a new petition for an
20 injunction under this section.

21 (e) This section does not preclude either party from
22 representation by private counsel or from appearing on the party's
23 own behalf.

24 (f) In a proceeding under this section where there are
25 allegations or threats of domestic violence, a support person may
26 accompany a party in court and, where the party is not represented
27 by an attorney, may sit with the party at the table that is generally
28 reserved for the party and the party's attorney. The support person
29 is present to provide moral and emotional support for a person who
30 alleges he or she is a victim of domestic violence. The support
31 person is not present as a legal adviser and shall not give legal
32 advice. The support person shall assist the person who alleges he
33 or she is a victim of domestic violence in feeling more confident
34 that he or she will not be injured or threatened by the other party
35 during the proceedings where the person who alleges he or she is
36 a victim of domestic violence and the other party must be present
37 in close proximity. This subdivision does not preclude the court
38 from exercising its discretion to remove the support person from
39 the courtroom if the court believes the support person is

1 prompting, swaying, or influencing the party assisted by the
2 support person.

3 (g) Upon filing of a petition for an injunction under this section,
4 the defendant shall be personally served with a copy of the petition,
5 temporary restraining order, if any, and notice of hearing of the
6 petition. Service shall be made at least five days before the hearing.
7 The court may for good cause, on motion of the plaintiff or on its
8 own motion, shorten the time for service on the defendant.

9 (h) The court shall order the plaintiff or the attorney for the
10 plaintiff to deliver a copy of each temporary restraining order or
11 injunction, or modification or termination thereof, granted under
12 this section, by the close of the business day on which the order was
13 granted, to the law enforcement agencies within the court's
14 discretion as are requested by the plaintiff. Each appropriate law
15 enforcement agency shall make available information as to the
16 existence and current status of these orders to law enforcement
17 officers responding to the scene of reported harassment.

18 An order issued under this section shall, on request of the
19 plaintiff, be served on the defendant, whether or not the defendant
20 has been taken into custody, by any law enforcement officer who
21 is present at the scene of reported harassment involving the parties
22 to the proceeding. The plaintiff shall provide the officer with an
23 endorsed copy of the order and a proof of service that the officer
24 shall complete and send to the issuing court.

25 Upon receiving information at the scene of an incident of
26 harassment that a protective order has been issued under this
27 section, or that a person who has been taken into custody is the
28 subject of an order, if the protected person cannot produce a
29 certified copy of the order, a law enforcement officer shall
30 immediately attempt to verify the existence of the order.

31 If the law enforcement officer determines that a protective order
32 has been issued, but not served, the officer shall immediately
33 notify the defendant of the terms of the order and shall at that time
34 also enforce the order. Verbal notice of the terms of the order shall
35 constitute service of the order and is sufficient notice for the
36 purposes of this section and for the purposes of Section 273.6 and
37 subdivision (g) of Section 12021 of the Penal Code.

38 (i) The prevailing party in any action brought under this section
39 may be awarded court costs and attorney's fees, if any.

(j) Any willful disobedience of any temporary restraining order or injunction granted under this section is punishable pursuant to Section 273.6 of the Penal Code.

(k) This section does not apply to any action or proceeding covered by Title 1.6C (commencing with Section 1788) of the Civil Code or by Division 10 (commencing with Section 6200) of the Family Code. Nothing in this section shall preclude a plaintiff's right to use other existing civil remedies.

(l) The Judicial Council shall promulgate forms and instructions therefor, and rules for service of process, scheduling of hearings, and any other matters required by this section. The petition and response forms shall be simple and concise, and their use by parties in actions brought pursuant to this section shall be mandatory.

(m) A temporary restraining order or injunction relating to harassment or domestic violence issued by a court pursuant to this section shall be issued on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice pursuant to subdivision (i) of Section 6380 of the Family Code. However, the fact that an order issued by a court pursuant to this section was not issued on forms adopted by the Judicial Council and approved by the Department of Justice shall not, in and of itself, make the order unenforceable.

(n) Information on any temporary restraining order or injunction relating to harassment or domestic violence issued by a court pursuant to this section shall be transmitted to the Department of Justice in accordance with subdivision (b) of Section 6380 of the Family Code.

(o) There shall be no filing fee for a petition that alleges that a person has inflicted or threatened violence against the petitioner, or stalked the petitioner, or acted or spoke in any other manner that has placed the petitioner in reasonable fear of violence, and that seeks a protective or restraining order or injunction restraining stalking or future violence or threats of violence, in any action brought pursuant to this section. No fee shall be paid for filing a response to a petition alleging these acts.

~~SEC. 5.~~

SEC. 3. Section 527.8 of the Code of Civil Procedure is amended to read:

1 527.8. (a) Any employer, whose employee has suffered
2 unlawful violence or a credible threat of violence from any
3 individual, that can reasonably be construed to be carried out or to
4 have been carried out at the workplace, may seek a temporary
5 restraining order and an injunction on behalf of the employee
6 prohibiting further unlawful violence or threats of violence by that
7 individual.

8 (b) For the purposes of this section:

9 (1) “Unlawful violence” is any assault or battery, or stalking
10 as prohibited in Section 646.9 of the Penal Code, but shall not
11 include lawful acts of self-defense or defense of others.

12 (2) “Credible threat of violence” is a knowing and willful
13 statement or course of conduct that would place a reasonable
14 person in fear for his or her safety, or the safety of his or her
15 immediate family, and that serves no legitimate purpose.

16 (3) “Course of conduct” is a pattern of conduct composed of
17 a series of acts over a period of time, however short, evidencing
18 a continuity of purpose, including following or stalking an
19 employee to or from the place of work; entering the workplace;
20 following an employee during hours of employment; making
21 telephone calls to an employee; or sending correspondence to an
22 employee by any means, including, but not limited to, the use of
23 the public or private mails, interoffice mail, fax, or computer
24 e-mail.

25 (c) This section does not permit a court to issue a temporary
26 restraining order or injunction prohibiting speech or other
27 activities that are constitutionally protected, or otherwise
28 protected by Section 527.3 or any other provision of law.

29 (d) For purposes of this section, the terms “employer” and
30 “employee” mean persons defined in Section 350 of the Labor
31 Code. “Employer” also includes a federal agency, the state, a state
32 agency, a city, county, or district, and a private, public, or
33 quasi-public corporation, or any public agency thereof or therein.
34 “Employee” also includes the members of boards of directors of
35 private, public, and quasi-public corporations and elected and
36 appointed public officers. For purposes of this section only,
37 “employee” also includes a volunteer or independent contractor
38 who performs services for the employer at the employer’s
39 worksite.

1 (e) Upon filing a petition for an injunction under this section,
2 the plaintiff may obtain a temporary restraining order in
3 accordance with subdivision (a) of Section 527, if the plaintiff also
4 files an affidavit that, to the satisfaction of the court, shows
5 reasonable proof that an employee has suffered unlawful violence
6 or a credible threat of violence by the defendant, and that great or
7 irreparable harm would result to an employee. In the discretion of
8 the court, and on a showing of good cause, a temporary restraining
9 order or injunction issued under this section may include other
10 named family or household members who reside with the
11 employee.

12 A temporary restraining order granted under this section shall
13 remain in effect, at the court's discretion, for a period not to exceed
14 15 days, unless otherwise modified or terminated by the court.

15 (f) Within 15 days of the filing of the petition, a hearing shall
16 be held on the petition for the injunction. The defendant may file
17 a response that explains, excuses, justifies, or denies the alleged
18 unlawful violence or credible threats of violence or may file a
19 cross-complaint under this section. At the hearing, the judge shall
20 receive any testimony that is relevant and may make an
21 independent inquiry. Moreover, if the defendant is a current
22 employee of the entity requesting the injunction, the judge shall
23 receive evidence concerning the employer's decision to retain,
24 terminate, or otherwise discipline the defendant. If the judge finds
25 by clear and convincing evidence that the defendant engaged in
26 unlawful violence or made a credible threat of violence, an
27 injunction shall issue prohibiting further unlawful violence or
28 threats of violence. An injunction issued pursuant to this section
29 shall have a duration of not more than three years. At any time
30 within the three months before the expiration of the injunction, the
31 plaintiff may apply for a renewal of the injunction by filing a new
32 petition for an injunction under this section.

33 (g) This section does not preclude either party from
34 representation by private counsel or from appearing on his or her
35 own behalf.

36 (h) Upon filing of a petition for an injunction under this section,
37 the defendant shall be personally served with a copy of the petition,
38 temporary restraining order, if any, and notice of hearing of the
39 petition. Service shall be made at least five days before the hearing.



1 The court may, for good cause, on motion of the plaintiff or on its
2 own motion, shorten the time for service on the defendant.

3 (i) The court shall order the plaintiff or the attorney for the
4 plaintiff to deliver a copy of each temporary restraining order or
5 injunction, or modification or termination thereof, granted under
6 this section, by the close of the business day on which the order was
7 granted, to the law enforcement agencies within the court's
8 discretion as are requested by the plaintiff. Each appropriate law
9 enforcement agency shall make available information as to the
10 existence and current status of these orders to law enforcement
11 officers responding to the scene of reported unlawful violence or
12 a credible threat of violence.

13 (j) Any intentional disobedience of any temporary restraining
14 order or injunction granted under this section is punishable
15 pursuant to Section 273.6 of the Penal Code.

16 (k) Nothing in this section may be construed as expanding,
17 diminishing, altering, or modifying the duty, if any, of an employer
18 to provide a safe workplace for employees and other persons.

19 (l) The Judicial Council shall develop forms, instructions, and
20 rules for scheduling of hearings and other procedures established
21 pursuant to this section. The forms for the petition and response
22 shall be simple and concise, and their use by parties in actions
23 brought pursuant to this section shall be mandatory.

24 (m) A temporary restraining order or injunction relating to
25 harassment or domestic violence issued by a court pursuant to this
26 section shall be issued on forms adopted by the Judicial Council
27 of California and that have been approved by the Department of
28 Justice pursuant to subdivision (i) of Section 6380 of the Family
29 Code. However, the fact that an order issued by a court pursuant
30 to this section was not issued on forms adopted by the Judicial
31 Council and approved by the Department of Justice shall not, in
32 and of itself, make the order unenforceable.

33 (n) Information on any temporary restraining order or
34 injunction relating to harassment or domestic violence issued by
35 a court pursuant to this section shall be transmitted to the
36 Department of Justice in accordance with subdivision (b) of
37 Section 6380 of the Family Code.

38 (o) There is no filing fee for a petition that alleges that a person
39 has inflicted or threatened violence against an employee of the
40 petitioner, or stalked the employee, or acted or spoke in any other

1 manner that has placed the employee in reasonable fear of
2 violence, and that seeks protective or restraining orders or
3 injunctions restraining stalking or future violence or threats of
4 violence, in any action brought pursuant to this section. No fee
5 shall be paid for filing a response to a petition alleging these acts.

6 ~~SEC. 5.2.~~

7 *SEC. 4.* Section 638 of the Code of Civil Procedure is
8 amended to read:

9 638. A referee may be appointed upon the agreement of the
10 parties filed with the clerk, or judge, or entered in the minutes, or
11 upon the motion of a party to a written contract or lease that
12 provides that any controversy arising therefrom shall be heard by
13 a referee if the court finds a reference agreement exists between the
14 parties:

15 (a) To hear and determine any or all of the issues in an action
16 or proceeding, whether of fact or of law, and to report a statement
17 of decision.

18 (b) To ascertain a fact necessary to enable the court to
19 determine an action or proceeding.

20 (c) In any matter in which a referee is appointed pursuant to this
21 section, a copy of the order shall be forwarded to the office of the
22 presiding judge. The Judicial Council shall, by rule, collect
23 information on the use of these referees. The Judicial Council shall
24 also collect information on fees paid by the parties for the use of
25 referees to the extent that information regarding those fees is
26 reported to the court. The Judicial Council shall report thereon to
27 the Legislature by July 1, 2003. This subdivision shall become
28 inoperative on January 1, 2004.

29 ~~SEC. 5.4.~~

30 *SEC. 5.* Section 1281.95 of the Code of Civil Procedure is
31 amended to read:

32 1281.95. (a) In a binding arbitration of any claim for more
33 than three thousand dollars (\$3,000) pursuant to a contract for the
34 construction or improvement of residential property consisting of
35 one to four units, the arbitrator shall, within 10 days following his
36 or her appointment, provide to each party a written declaration
37 under penalty of perjury. This declaration shall disclose (1)
38 whether the arbitrator or his or her employer or arbitration service
39 had or has a personal or professional affiliation with either party,
40 and (2) whether the arbitrator or his or her employer or arbitration

1 service has been selected or designated as an arbitrator by either
2 party in another transaction.

3 (b) If the arbitrator discloses an affiliation with either party,
4 discloses that the arbitrator has been selected or designated as an
5 arbitrator by either party in another arbitration, or fails to comply
6 with this section, he or she may be disqualified from the arbitration
7 by either party.

8 (c) A notice of disqualification shall be served within 15 days
9 after the arbitrator makes the required disclosures or fails to
10 comply. The right of a party to disqualify an arbitrator shall be
11 waived if the party fails to serve the notice of disqualification
12 pursuant to this subdivision unless the arbitration makes a material
13 omission or material misrepresentation in his or her disclosure.
14 Nothing in this section shall limit the right of a party to vacate an
15 award pursuant to Section 1286.2, or to disqualify an arbitrator
16 pursuant to any other law or statute.

17 SEC. 6. Section 1987 of the Code of Civil Procedure is
18 amended to read:

19 1987. (a) Except as provided in Sections 68097.1 to 68097.8,
20 inclusive, of the Government Code, the service of a subpoena is
21 made by delivering a copy, or a ticket containing its substance, to
22 the witness personally, giving or offering to the witness at the same
23 time, if demanded by him or her, the fees to which he or she is
24 entitled for travel to and from the place designated, and one day's
25 attendance there. The service shall be made so as to allow the
26 witness a reasonable time for preparation and travel to the place of
27 attendance. The service may be made by any person. If service is
28 to be made on a minor, service shall be made on the minor's parent,
29 guardian, conservator, or similar fiduciary, or if one of those
30 persons cannot be located with reasonable diligence, service shall
31 be made on any person having the care or control of the minor or
32 with whom the minor resides or by whom the minor is employed,
33 and on the minor if the minor is 12 years of age or older. If the
34 minor is alleged to come within the description of Section 300,
35 601, or 602 of the Welfare and Institutions Code and the minor is
36 not in the custody of a parent or guardian, regardless of the age of
37 the minor, service also shall be made upon the designated agent for
38 service of process at the county child welfare department or the
39 probation department under whose jurisdiction the minor has been
40 placed.

(b) In the case of the production of a party to the record of any civil action or proceeding or of a person for whose immediate benefit an action or proceeding is prosecuted or defended or of anyone who is an officer, director, or managing agent of any such party or person, the service of a subpoena upon any such witness is not required if written notice requesting the witness to attend before a court, or at a trial of an issue therein, with the time and place thereof, is served upon the attorney of that party or person. The notice shall be served at least 10 days before the time required for attendance unless the court prescribes a shorter time. If entitled thereto, the witness, upon demand, shall be paid witness fees and mileage before being required to testify. The giving of the notice shall have the same effect as service of a subpoena on the witness, and the parties shall have those rights and the court may make those orders, including the imposition of sanctions, as in the case of a subpoena for attendance before the court.

(c) If the notice specified in subdivision (b) is served at least 20 days before the time required for attendance, or within any shorter period of time as the court may order, it may include a request that the party or person bring with him or her books, documents or other things. The notice shall state the exact materials or things desired and that the party or person has them in his or her possession or under his or her control. Within five days thereafter, or any other time period as the court may allow, the party or person of whom the request is made may serve written objections to the request or any part thereof, with a statement of grounds. Thereafter, upon noticed motion of the requesting party, accompanied by a showing of good cause and of materiality of the items to the issues, the court may order production of items to which objection was made, unless the objecting party or person establishes good cause for nonproduction or production under limitations or conditions. The procedure of this subdivision is alternative to the procedure provided by Sections 1985 and 1987.5 in the cases herein provided for, and no subpoena duces tecum shall be required.

Subject to this subdivision, the notice provided in this subdivision shall have the same effect as is provided in subdivision (b) as to a notice for attendance of that party or person.

1 SEC. 7. *Section 307 of the Corporations Code, as amended by*
2 *Section 1 of Chapter 136 of the Statutes of 1997, is amended to*
3 *read:*

4 307. (a) Unless otherwise provided in the articles or ~~(subject,~~
5 ~~subject to paragraph (5) of subdivision (a) of Section 204)~~ 204, in
6 the bylaws, all of the following apply:

7 (1) Meetings of the board may be called by the chair of the
8 board or the president or any vice president or the secretary or any
9 two directors.

10 (2) Regular meetings of the board may be held without notice
11 if the time and place of the meetings are fixed by the bylaws or the
12 board. Special meetings of the board shall be held upon four days'
13 notice by mail or 48 hours' notice delivered personally or by
14 telephone, including a voice messaging system or other system or
15 technology designed to record and communicate messages,
16 telegraph, facsimile, electronic mail, or other electronic means.
17 The articles or bylaws may not dispense with notice of a special
18 meeting. A notice, or waiver of notice, need not specify the
19 purpose of any regular or special meeting of the board.

20 (3) Notice of a meeting need not be given to a director who
21 signs a waiver of notice or a consent to holding the meeting or an
22 approval of the minutes thereof, whether before or after the
23 meeting, or who attends the meeting without protesting, prior
24 thereto or at its commencement, the lack of notice to that director.
25 These waivers, consents and approvals shall be filed with the
26 corporate records or made a part of the minutes of the meeting.

27 (4) A majority of the directors present, whether or not a quorum
28 is present, may adjourn any meeting to another time and place. If
29 the meeting is adjourned for more than 24 hours, notice of an
30 adjournment to another time or place shall be given prior to the
31 time of the adjourned meeting to the directors who were not
32 present at the time of the adjournment.

33 (5) Meetings of the board may be held at a place within or
34 without the state that has been designated in the notice of the
35 meeting or, if not stated in the notice or there is no notice,
36 designated in the bylaws or by resolution of the board.

37 (6) Members of the board may participate in a meeting through
38 use of conference telephone, electronic video screen
39 communication, or other communications equipment.
40 Participation in a meeting through use of conference telephone

1 pursuant to this subdivision constitutes presence in person at that
2 meeting as long as all members participating in the meeting are
3 able to hear one another. Participation in a meeting through the use
4 of electronic video screen communication or other
5 communications equipment—~~(other, other~~ than conference
6 ~~telephone)~~ *telephone*, pursuant to this subdivision constitutes
7 presence in person at that meeting if all of the following apply:

8 (A) Each member participating in the meeting can
9 communicate with all of the other members concurrently.

10 (B) Each member is provided the means of participating in all
11 matters before the board, including, without limitation, the
12 capacity to propose, or to interpose an objection to, a specific
13 action to be taken by the corporation.

14 (C) The corporation adopts and implements some means of
15 verifying both of the following:

16 (i) A person participating in the meeting is a director or other
17 person entitled to participate in the board meeting.

18 (ii) All actions of, or votes by, the board are taken or cast only
19 by the directors and not by persons who are not directors.

20 (7) A majority of the authorized number of directors
21 constitutes a quorum of the board for the transaction of business.
22 The articles or bylaws may not provide that a quorum shall be less
23 than one-third the authorized number of directors or less than two,
24 whichever is larger, unless the authorized number of directors is
25 one, in which case one director constitutes a quorum.

26 (8) An act or decision done or made by a majority of the
27 directors present at a meeting duly held at which a quorum is
28 present is the act of the board, subject to the provisions of Section
29 310 and subdivision (e) of Section 317. The articles or bylaws may
30 not provide that a lesser vote than a majority of the directors
31 present at a meeting is the act of the board. A meeting at which a
32 quorum is initially present may continue to transact business
33 notwithstanding the withdrawal of directors, if any action taken is
34 approved by at least a majority of the required quorum for that
35 meeting.

36 (b) An action required or permitted to be taken by the board
37 may be taken without a meeting, if all members of the board shall
38 individually or collectively consent in writing to that action. The
39 written consent or consents shall be filed with the minutes of the

1 proceedings of the board. The action by written consent shall have
2 the same force and effect as a unanimous vote of the directors.

3 ~~(c) The provisions of this~~ *This section apply applies* also to
4 committees of the board and incorporators and action by those
5 committees and incorporators, mutatis mutandis.

6 (d) This section shall remain in effect only until January 1,
7 ~~2003~~ 2004, and as of that date is repealed, unless a later enacted
8 statute, that is enacted before January 1, ~~2003~~ 2004, deletes or
9 extends that date.

10 *SEC. 8. Section 307 of the Corporations Code, as amended by*
11 *Section 2 of Chapter 136 of the Statutes of 1997, is amended to*
12 *read:*

13 307. (a) Unless otherwise provided in the articles or ~~(subject,~~
14 *subject* to paragraph (5) of subdivision (a) of Section ~~204~~ 204 in
15 the bylaws:

16 (1) Meetings of the board may be called by the chairperson of
17 the board or the president or any vice president or the secretary or
18 any two directors.

19 (2) Regular meetings of the board may be held without notice
20 if the time and place of ~~such~~ *the* meetings are fixed by the bylaws
21 or the board. Special meetings of the board shall be held upon four
22 days' notice by mail or 48 hours' notice delivered personally or by
23 telephone, including a voice messaging system or other system or
24 technology designed to record and communicate messages,
25 telegraph, facsimile, electronic mail, or other electronic means.
26 The articles or bylaws may not dispense with notice of a special
27 meeting. A notice, or waiver of notice, need not specify the
28 purpose of any regular or special meeting of the board.

29 (3) Notice of a meeting need not be given to any director who
30 signs a waiver of notice or a consent to holding the meeting or an
31 approval of the minutes thereof, whether before or after the
32 meeting, or who attends the meeting without protesting, prior
33 thereto or at its commencement, the lack of notice to ~~such~~ *that*
34 director. ~~All such~~ *These* waivers, consents and approvals shall be
35 filed with the corporate records or made a part of the minutes of
36 the meeting.

37 (4) A majority of the directors present, whether or not a quorum
38 is present, may adjourn any meeting to another time and place. If
39 the meeting is adjourned for more than 24 hours, notice of any
40 adjournment to another time or place shall be given prior to the

1 time of the adjourned meeting to the directors who were not
2 present at the time of the adjournment.

3 (5) Meetings of the board may be held at any place within or
4 without the state which has been designated in the notice of the
5 meeting or, if not stated in the notice or there is no notice,
6 designated in the bylaws or by resolution of the board.

7 (6) Members of the board may participate in a meeting through
8 use of conference telephone or similar communications
9 equipment, as long as all members participating in ~~such~~ *the*
10 meeting can hear one another. Participation in a meeting pursuant
11 to this subdivision constitutes presence in person at ~~such~~ *the*
12 meeting.

13 (7) A majority of the authorized number of directors
14 constitutes a quorum of the board for the transaction of business.
15 The articles or bylaws may not provide that a quorum shall be less
16 than one-third the authorized number of directors or less than two,
17 whichever is larger, unless the authorized number of directors is
18 one, in which case one director constitutes a quorum.

19 (8) Every act or decision done or made by a majority of the
20 directors present at a meeting duly held at which a quorum is
21 present is the act of the board, subject to the provisions of Section
22 310 and subdivision (e) of Section 317. The articles or bylaws may
23 not provide that a lesser vote than a majority of the directors
24 present at a meeting is the act of the board. A meeting at which a
25 quorum is initially present may continue to transact business
26 notwithstanding the withdrawal of directors, if any action taken is
27 approved by at least a majority of the required quorum for ~~such~~ *the*
28 meeting.

29 (b) Any action required or permitted to be taken by the board
30 may be taken without a meeting, if all members of the board shall
31 individually or collectively consent in writing to ~~such~~ *that* action.
32 ~~Such~~ The written consent or consents shall be filed with the
33 minutes of the proceedings of the board. ~~Such~~ The action by
34 written consent shall have the same force and effect as a
35 unanimous vote of ~~such~~ *the* directors.

36 (c) The provisions of this section apply also to committees of
37 the board and incorporators and action by such committees and
38 incorporators, mutatis mutandis.

39 (d) This section shall become operative on January 1, ~~2003~~
40 2004.

1 *SEC. 9. Section 5211 of the Corporations Code, as amended*
2 *by Section 5 of Chapter 136 of the Statutes of 1997, is amended to*
3 *read:*

4 5211. (a) Unless otherwise provided in the articles or in the
5 bylaws, all of the following apply:

6 (1) Meetings of the board may be called by the chair of the
7 board or the president or any vice president or the secretary or any
8 two directors.

9 (2) Regular meetings of the board may be held without notice
10 if the time and place of the meetings are fixed by the bylaws or the
11 board. Special meetings of the board shall be held upon four days'
12 notice by first-class mail or 48 hours' notice delivered personally
13 or by telephone, including a voice messaging system or other
14 system or technology designed to record and communicate
15 messages, telegraph, facsimile, electronic mail, or other electronic
16 means. The articles or bylaws may not dispense with notice of a
17 special meeting. A notice, or waiver of notice, need not specify the
18 purpose of any regular or special meeting of the board.

19 (3) Notice of a meeting need not be given to a director who
20 signed a waiver of notice or a written consent to holding the
21 meeting or an approval of the minutes thereof, whether before or
22 after the meeting, or who attends the meeting without protesting,
23 prior thereto or at its commencement, the lack of notice to that
24 director. These waivers, consents and approvals shall be filed with
25 the corporate records or made a part of the minutes of the meetings.

26 (4) A majority of the directors present, whether or not a quorum
27 is present, may adjourn any meeting to another time and place. If
28 the meeting is adjourned for more than 24 hours, notice of an
29 adjournment to another time or place shall be given prior to the
30 time of the adjourned meeting to the directors who were not
31 present at the time of the adjournment.

32 (5) Meetings of the board may be held at a place within or
33 without the state that has been designated in the notice of the
34 meeting or, if not stated in the notice or there is no notice,
35 designated in the bylaws or by resolution of the board.

36 (6) Members of the board may participate in a meeting through
37 use of conference telephone, electronic video screen
38 communication, or other communications equipment.
39 Participation in a meeting through use of conference telephone
40 pursuant to this subdivision constitutes presence in person at that

1 meeting as long as all members participating in the meeting are
2 able to hear one another. Participation in a meeting through use of
3 electronic video screen communication or other communications
4 equipment—~~other, other than conference telephone~~ telephone,
5 pursuant to this subdivision constitutes presence in person at that
6 meeting if all of the following apply:

7 (A) Each member participating in the meeting can
8 communicate with all of the other members concurrently.

9 (B) Each member is provided the means of participating in all
10 matters before the board, including, without limitation, the
11 capacity to propose, or to interpose an objection to, a specific
12 action to be taken by the corporation.

13 (C) The corporation adopts and implements some means of
14 verifying both of the following:

15 (i) A person participating in the meeting is a director or other
16 person entitled to participate in the board meeting.

17 (ii) All actions of, or votes by, the board are taken or cast only
18 by the directors and not by persons who are not directors.

19 (7) A majority of the number of directors authorized in the
20 articles or bylaws constitutes a quorum of the board for the
21 transaction of business. The articles or bylaws may not provide
22 that a quorum shall be less than one-fifth the number of directors
23 authorized in the articles or bylaws, or less than two, whichever is
24 larger, unless the number of directors authorized in the articles or
25 bylaws is one, in which case one director constitutes a quorum.

26 (8) Subject to the provisions of Sections 5212, 5233, 5234,
27 5235, and subdivision (e) of Section 5238, an act or decision done
28 or made by a majority of the directors present at a meeting duly
29 held at which a quorum is present is the act of the board. The
30 articles or bylaws may not provide that a lesser vote than a majority
31 of the directors present at a meeting is the act of the board. A
32 meeting at which a quorum is initially present may continue to
33 transact business notwithstanding the withdrawal of directors, if
34 any action taken is approved by at least a majority of the required
35 quorum for that meeting, or a greater number required by this
36 division, the articles or bylaws.

37 (b) An action required or permitted to be taken by the board
38 may be taken without a meeting, if all members of the board shall
39 individually or collectively consent in writing to that action. The
40 written consent or consents shall be filed with the minutes of the

proceedings of the board. The action by written consent shall have the same force and effect as the unanimous vote of the directors. For the purposes of this section only, “all members of the board” ~~shall~~ *does* not include an “interested director” as defined in Section 5233.

(c) The provisions of this section apply also to incorporators, to committees of the board, and to action by those incorporators or committees mutatis mutandis.

(d) This section shall remain in effect only until January 1, ~~2003~~ *2004*, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2003~~ *2004*, deletes or extends that date.

SEC. 10. Section 5211 of the Corporations Code, as amended by Section 6 of Chapter 136 of the Statutes of 1997, is amended to read:

5211. (a) Unless otherwise provided in the articles or in the bylaws:

(1) Meetings of the board may be called by the chairperson of the board or the president or any vice president or the secretary or any two directors.

(2) Regular meetings of the board may be held without notice if the time and place of ~~such~~ *the* meetings are fixed by the bylaws or the board. Special meetings of the board shall be held upon four days’ notice by first-class mail or 48 hours’ notice delivered personally or by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, telegraph, facsimile, electronic mail, or other electronic means. The articles or bylaws may not dispense with notice of a special meeting. A notice, or waiver of notice, need not specify the purpose of any regular or special meeting of the board.

(3) Notice of a meeting need not be given to any director who signed a waiver of notice or a written consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to ~~such~~ *that* director. ~~All such~~ *These* waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meetings.

(4) A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. If

1 the meeting is adjourned for more than 24 hours, notice of any
2 adjournment to another time or place shall be given prior to the
3 time of the adjourned meeting to the directors who were not
4 present at the time of the adjournment.

5 (5) Meetings of the board may be held at any place within or
6 without the state which has been designated in the notice of the
7 meeting or, if not stated in the notice or there is no notice,
8 designated in the bylaws or by resolution of the board.

9 (6) Members of the board may participate in a meeting through
10 use of conference telephone or similar communications
11 equipment, as long as all members participating in ~~such the~~
12 meeting can hear one another. Participation in a meeting pursuant
13 to this subdivision constitutes presence in person at ~~such the~~
14 meeting.

15 (7) A majority of the number of directors authorized in the
16 articles or bylaws constitutes a quorum of the board for the
17 transaction of business. The articles or bylaws may not provide
18 that a quorum shall be less than one-fifth the number of directors
19 authorized in the articles or bylaws, or less than two, whichever is
20 larger, unless the number of directors authorized in the articles or
21 bylaws is one, in which case one director constitutes a quorum.

22 (8) Subject to the provisions of Sections 5212, 5233, 5234,
23 5235, and subdivision (e) of Section 5238, every act or decision
24 done or made by a majority of the directors present at a meeting
25 duly held at which a quorum is present is the act of the board. The
26 articles or bylaws may not provide that a lesser vote than a majority
27 of the directors present at a meeting is the act of the board. A
28 meeting at which a quorum is initially present may continue to
29 transact business notwithstanding the withdrawal of directors, if
30 any action taken is approved by at least a majority of the required
31 quorum for ~~such the~~ meeting, or ~~such any~~ greater number as is
32 required by this division, the articles or bylaws.

33 (b) Any action required or permitted to be taken by the board
34 may be taken without a meeting, if all members of the board shall
35 individually or collectively consent in writing to ~~such that~~ action.
36 ~~Such~~ The written consent or consents shall be filed with the
37 minutes of the proceedings of the board. ~~Such~~ The action by
38 written consent shall have the same force and effect as the
39 unanimous vote of ~~such the~~ directors. For the purposes of this

1 section only, “all members of the board” ~~shall~~ *does* not include
2 any “interested director” as defined in Section 5233.

3 (c) The provisions of this section apply also to incorporators,
4 to committees of the board, and to action by ~~such~~ *those*
5 incorporators or ~~such~~ committees mutatis mutandis.

6 (d) This section shall become operative on January 1, ~~2003~~
7 *2004*.

8 *SEC. 11. Section 7211 of the Corporations Code, as amended*
9 *by Section 7 of Chapter 136 of the Statutes of 1997, is amended to*
10 *read:*

11 7211. (a) Unless otherwise provided in the articles or in the
12 bylaws, all of the following apply:

13 (1) Meetings of the board may be called by the chair of the
14 board or the president or any vice president or the secretary or any
15 two directors.

16 (2) Regular meetings of the board may be held without notice
17 if the time and place of the meetings are fixed by the bylaws or the
18 board. Special meetings of the board shall be held upon four days’
19 notice by first-class mail or 48 hours’ notice delivered personally
20 or by telephone, including a voice messaging system or other
21 system or technology designed to record and communicate
22 messages, telegraph, facsimile, electronic mail, or other electronic
23 means. The articles or bylaws may not dispense with notice of a
24 special meeting. A notice, or waiver of notice, need not specify the
25 purpose of any regular or special meeting of the board.

26 (3) Notice of a meeting need not be given to a director who
27 signed a waiver of notice or a written consent to holding the
28 meeting or an approval of the minutes thereof, whether before or
29 after the meeting, or who attends the meeting without protesting,
30 prior thereto or at its commencement, the lack of notice to that
31 director. These waivers, consents and approvals shall be filed with
32 the corporate records or made a part of the minutes of the meetings.

33 (4) A majority of the directors present, whether or not a quorum
34 is present, may adjourn any meeting to another time and place. If
35 the meeting is adjourned for more than 24 hours, notice of an
36 adjournment to another time or place shall be given prior to the
37 time of the adjourned meeting to the directors who were not
38 present at the time of the adjournment.

39 (5) Meetings of the board may be held at a place within or
40 without the state that has been designated in the notice of the

1 meeting or, if not stated in the notice or if there is no notice,
2 designated in the bylaws or by resolution of the board.

3 (6) Members of the board may participate in a meeting through
4 use of conference telephone, electronic video screen
5 communications, or other communications equipment.
6 Participation in a meeting through use of conference telephone
7 pursuant to this subdivision constitutes presence in person at that
8 meeting as long as all members participating in the meeting are
9 able to hear one another. Participation in a meeting through use of
10 electronic video screen communication or other communications
11 equipment—~~(other, other than conference telephone)~~ telephone,
12 pursuant to this subdivision constitutes presence in person at that
13 meeting if all of the following apply:

14 (A) Each member participating in the meeting can
15 communicate with all of the other members concurrently.

16 (B) Each member is provided the means of participating in all
17 matters before the board, including, without limitation, the
18 capacity to propose, or to interpose an objection to, a specific
19 action to be taken by the corporation.

20 (C) The corporation adopts and implements some means of
21 verifying both of the following:

22 (i) A person participating in the meeting is a director or other
23 person entitled to participate in the board meeting.

24 (ii) All actions of, or votes by, the board are taken or cast only
25 by the directors and not by persons who are not directors.

26 (7) A majority of the number of directors authorized in the
27 articles or bylaws constitutes a quorum of the board for the
28 transaction of business. The articles or bylaws may not provide
29 that a quorum shall be less than one-fifth the number of directors
30 authorized in the articles or bylaws, or less than two, whichever is
31 larger, unless the number of directors authorized in the articles or
32 bylaws is one, in which case one director constitutes a quorum.

33 (8) Subject to the provisions of Sections 7212, 7233, 7234, and
34 subdivision (e) of Section 7237 and Section 5233, insofar as it is
35 made applicable pursuant to Section 7238, an act or decision done
36 or made by a majority of the directors present at a meeting duly
37 held at which a quorum is present is the act of the board. The
38 articles or bylaws may not provide that a lesser vote than a majority
39 of the directors present at a meeting is the act of the board. A
40 meeting at which a quorum is initially present may continue to

1 transact business notwithstanding the withdrawal of directors, if
2 any action taken is approved by at least a majority of the required
3 quorum for that meeting, or a greater number required by this
4 division, the articles or bylaws.

5 (b) An action required or permitted to be taken by the board
6 may be taken without a meeting, if all members of the board shall
7 individually or collectively consent in writing to that action. The
8 written consent or consents shall be filed with the minutes of the
9 proceedings of the board. The action by written consent shall have
10 the same force and effect as a unanimous vote of the directors. For
11 the purposes of this section only, “all members of the board” ~~shall~~
12 *does not* include an “interested director” as defined in Section
13 5233, insofar as it is made applicable pursuant to Section 7238.

14 (c) ~~The provisions of this~~ *This section apply applies* also to
15 incorporators, to committees of the board, and to action by those
16 incorporators or committees mutatis mutandis.

17 (d) This section shall remain in effect only until January 1,
18 ~~2003~~ 2004, and as of that date is repealed, unless a later enacted
19 statute, that is enacted before January 1, ~~2003~~ 2004, deletes or
20 extends that date.

21 *SEC. 12. Section 7211 of the Corporations Code, as amended*
22 *by Section 8 of Chapter 136 of the Statutes of 1997, is amended to*
23 *read:*

24 7211. (a) Unless otherwise provided in the articles or in the
25 bylaws:

26 (1) Meetings of the board may be called by the chairperson of
27 the board or the president or any vice president or the secretary or
28 any two directors.

29 (2) Regular meetings of the board may be held without notice
30 if the time and place of ~~such~~ *the* meetings are fixed by the bylaws
31 or the board. Special meetings of the board shall be held upon four
32 days’ notice by first-class mail or 48 hours’ notice delivered
33 personally or by telephone, including a voice messaging system or
34 other system or technology designed to record and communicate
35 messages, telegraph, facsimile, electronic mail, or other electronic
36 means. The articles or bylaws may not dispense with notice of a
37 special meeting. A notice, or waiver of notice, need not specify the
38 purpose of any regular or special meeting of the board.

39 (3) Notice of a meeting need not be given to any director who
40 signed a waiver of notice or a written consent to holding the

1 meeting or an approval of the minutes thereof, whether before or
2 after the meeting, or who attends the meeting without protesting,
3 prior thereto or at its commencement, the lack of notice to ~~such~~
4 ~~that~~ director. ~~All such~~ These waivers, consents and approvals shall
5 be filed with the corporate records or made a part of the minutes
6 of the meetings.

7 (4) A majority of the directors present, whether or not a quorum
8 is present, may adjourn any meeting to another time and place. If
9 the meeting is adjourned for more than 24 hours, notice of any
10 adjournment to another time or place shall be given prior to the
11 time of the adjourned meeting to the directors who were not
12 present at the time of the adjournment.

13 (5) Meetings of the board may be held at any place within or
14 without the state which has been designated in the notice of the
15 meeting or, if not stated in the notice or if there is no notice,
16 designated in the bylaws or by resolution of the board.

17 (6) Members of the board may participate in a meeting through
18 use of conference telephone or similar communications
19 equipment, as long as all members participating in ~~such~~ the
20 meeting can hear one another. Participation in a meeting pursuant
21 to this subdivision constitutes presence in person at ~~such~~ the
22 meeting.

23 (7) A majority of the number of directors authorized in the
24 articles or bylaws constitutes a quorum of the board for the
25 transaction of business. The articles or bylaws may not provide
26 that a quorum shall be less than one-fifth the number of directors
27 authorized in the articles or bylaws, or less than two, whichever is
28 larger, unless the number of directors authorized in the articles or
29 bylaws is one, in which case one director constitutes a quorum.

30 (8) Subject to the provisions of Sections 7212, 7233, 7234, and
31 subdivision (e) of Section 7237 and Section 5233, insofar as it is
32 made applicable pursuant to Section 7238, every act or decision
33 done or made by a majority of the directors present at a meeting
34 duly held at which a quorum is present is the act of the board. The
35 articles or bylaws may not provide that a lesser vote than a majority
36 of the directors present at a meeting is the act of the board. A
37 meeting at which a quorum is initially present may continue to
38 transact business notwithstanding the withdrawal of directors, if
39 any action taken is approved by at least a majority of the required

1 quorum for ~~such~~ the meeting, or ~~such~~ any greater number as is
2 required by this division, the articles or bylaws.

3 (b) Any action required or permitted to be taken by the board
4 may be taken without a meeting, if all members of the board shall
5 individually or collectively consent in writing to ~~such~~ that action.

6 ~~Such~~ The written consent or consents shall be filed with the
7 minutes of the proceedings of the board. ~~Such~~ The action by
8 written consent shall have the same force and effect as a
9 unanimous vote of ~~such~~ the directors. For the purposes of this
10 section only, “all members of the board” ~~shall~~ does not include
11 any “interested director” as defined in Section 5233, insofar as it
12 is made applicable pursuant to Section 7238.

13 (c) The provisions of this section apply also to incorporators,
14 to committees of the board, and to action by such incorporators or
15 such committees mutatis mutandis.

16 (d) This section shall become operative on January 1, 2003
17 2004.

18 *SEC. 13. Section 9211 of the Corporations Code, as amended*
19 *by Section 9 of Chapter 136 of the Statutes of 1997, is amended to*
20 *read:*

21 9211. (a) Unless otherwise provided in the articles or in the
22 bylaws, all of the following apply:

23 (1) Meetings of the board may be called by the chair of the
24 board or the president or any vice president or the secretary or any
25 two directors.

26 (2) Regular meetings of the board may be held without notice
27 if the time and place of the meetings are fixed by the bylaws or the
28 board. Special meetings of the board shall be held upon four days’
29 notice by first-class mail or 48 hours’ notice delivered personally
30 or by telephone, including a voice messaging system or other
31 system or technology designed to record and communicate
32 messages, telegraph, facsimile, electronic mail, or other electronic
33 means. The articles or bylaws may not dispense with notice of a
34 special meeting. A notice, or waiver of notice, need not specify the
35 purpose of any regular or special meeting of the board.

36 (3) Notice of a meeting need not be given to a director who
37 signed a waiver of notice or a written consent to holding the
38 meeting or an approval of the minutes thereof, whether before or
39 after the meeting, or who attends the meeting without protesting,
40 prior thereto or at its commencement, the lack of notice to that

1 director. These waivers, consents and approvals shall be filed with
2 the corporate records or made a part of the minutes of the meetings.

3 (4) A majority of the directors present, whether or not a quorum
4 is present, may adjourn any meeting to another time and place.

5 (5) Meetings of the board may be held at a place within or
6 without the state that has been designated in the notice of the
7 meeting or, if not stated in the notice or there is no notice,
8 designated in the bylaws or by resolution of the board.

9 (6) Members of the board may participate in a meeting through
10 use of conference telephone, electronic video screen
11 communication, or other communications equipment.
12 Participation in a meeting through use of conference telephone
13 pursuant to this subdivision constitutes presence in person at that
14 meeting as long as all members participating in the meeting are
15 able to hear one another. Participation in a meeting through use of
16 electronic video screen communication or other communications
17 equipment—~~other, other than conference telephone~~ telephone,
18 pursuant to this subdivision constitutes presence in person at that
19 meeting, if all of the following apply:

20 (A) Each member participating in the meeting can
21 communicate with all of the other members concurrently.

22 (B) Each member is provided the means of participating in all
23 matters before the board, including, without limitation, the
24 capacity to propose, or to interpose an objection to, a specific
25 action to be taken by the corporation.

26 (C) The corporation adopts and implements some means of
27 verifying both of the following:

28 (i) A person participating in the meeting is a director or other
29 person entitled to participate in the board meeting.

30 (ii) All actions of or votes by the board are taken or cast only
31 by the directors and not by persons who are not directors.

32 (7) A majority of the number of directors authorized in the
33 articles or bylaws constitutes a quorum of the board for the
34 transaction of business.

35 (8) An act or decision done or made by a majority of the
36 directors present at a meeting duly held at which a quorum is
37 present is the act of the board. The articles or bylaws may not
38 provide that a lesser vote than a majority of the directors present
39 at a meeting is the act of the board. A meeting at which a quorum
40 is initially present may continue to transact business

1 notwithstanding the withdrawal of directors, if any action taken is
2 approved by at least a majority of the required quorum for that
3 meeting, or a greater number as is required by this division, the
4 articles or bylaws.

5 (b) An action required or permitted to be taken by the board
6 may be taken without a meeting, if all members of the board shall
7 individually or collectively consent in writing to that action. The
8 written consent or consents shall be filed with the minutes of the
9 proceedings of the board. The action by written consent shall have
10 the same force and effect as the unanimous vote of ~~such~~ *the*
11 directors.

12 (c) ~~The provisions of this~~ *This section apply applies* also to
13 incorporators, to committees of the board, and to action by those
14 incorporators or committees mutatis mutandis.

15 (d) This section shall remain in effect only until January 1,
16 ~~2003~~ *2004*, and as of that date is repealed, unless a later enacted
17 statute, that is enacted before January 1, ~~2003~~ *2004*, deletes or
18 extends that date.

19 *SEC. 14. Section 9211 of the Corporations Code, as amended*
20 *by Section 10 of Chapter 136 of the Statutes of 1997, is amended*
21 *to read:*

22 9211. (a) Unless otherwise provided in the articles or in the
23 bylaws:

24 (1) Meetings of the board may be called by the chairperson of
25 the board or the president or any vice president or the secretary or
26 any two directors.

27 (2) Regular meetings of the board may be held without notice
28 if the time and place of ~~such~~ *the* meetings are fixed by the bylaws
29 or the board. Special meetings of the board shall be held upon four
30 days' notice by first-class mail or 48 hours' notice delivered
31 personally or by telephone, including a voice messaging system or
32 other system or technology designed to record and communicate
33 messages, telegraph, facsimile, electronic mail, or other electronic
34 means. The articles or bylaws may not dispense with notice of a
35 special meeting. A notice, or waiver of notice, need not specify the
36 purpose of any regular or special meeting of the board.

37 (3) Notice of a meeting need not be given to any director who
38 signed a waiver of notice or a written consent to holding the
39 meeting or an approval of the minutes thereof, whether before or
40 after the meeting, or who attends the meeting without protesting,

1 prior thereto or at its commencement, the lack of notice to ~~such~~
2 ~~that~~ director. ~~All such~~ These waivers, consents and approvals shall
3 be filed with the corporate records or made a part of the minutes
4 of the meetings.

5 (4) A majority of the directors present, whether or not a quorum
6 is present, may adjourn any meeting to another time and place.

7 (5) Meetings of the board may be held at any place within or
8 without the state which has been designated in the notice of the
9 meeting or, if not stated in the notice or there is no notice,
10 designated in the bylaws or by resolution of the board.

11 (6) Members of the board may participate in a meeting through
12 use of conference telephone or similar communications
13 equipment, as long as all members participating in ~~such the~~
14 meeting can hear one another. Participation in a meeting pursuant
15 to this subdivision constitutes presence in person at ~~such the~~
16 meeting.

17 (7) A majority of the number of directors authorized in the
18 articles or bylaws constitutes a quorum of the board for the
19 transaction of business.

20 (8) Every act or decision done or made by a majority of the
21 directors present at a meeting duly held at which a quorum is
22 present is the act of the board. The articles or bylaws may not
23 provide that a lesser vote than a majority of the directors present
24 at a meeting is the act of the board. A meeting at which a quorum
25 is initially present may continue to transact business
26 notwithstanding the withdrawal of directors, if any action taken is
27 approved by at least a majority of the required quorum for ~~such the~~
28 meeting, or ~~such any~~ greater number as is required by this division,
29 the articles, or bylaws.

30 (b) Any action required or permitted to be taken by the board
31 may be taken without a meeting, if all members of the board shall
32 individually or collectively consent in writing to ~~such that~~ action.
33 ~~Such~~ The written consent or consents shall be filed with the
34 minutes of the proceedings of the board. ~~Such~~ The action by
35 written consent shall have the same force and effect as the
36 unanimous vote of ~~such the~~ directors.

37 (c) ~~The provisions of this~~ This section ~~apply~~ *applies* also to
38 incorporators, to committees of the board, and to action by ~~such~~
39 ~~the~~ incorporators or ~~such the~~ committees mutatis mutandis.

(d) This section shall become operative on January 1, ~~2003~~
2004.

SEC. 15. Section 2106 of the Family Code is amended to read:

2106. Except as provided in subdivision (d) of Section 2105 or in Section 2110, absent good cause, no judgment shall be entered with respect to the parties' property rights without each party, or the attorney for that party in this matter, having executed and served a copy of the final declaration of disclosure and current income and expense declaration. Each party, or his or her attorney, shall execute and file with the court a declaration signed under penalty of perjury stating that service of the final declaration of disclosure and current income and expense declaration was made on the other party or that service of the final declaration of disclosure has been waived pursuant to subdivision (d) of Section 2105 or in Section 2110.

~~SEC. 8.~~

SEC. 16. Section 3111 of the Family Code is amended to read:

3111. (a) In any contested proceeding involving child custody or visitation rights, the court may appoint a child custody evaluator to conduct a child custody evaluation in cases where the court determines it is in the best interests of the child. The child custody evaluation shall be conducted in accordance with the standards adopted by the Judicial Council pursuant to Section 3117, and all other standards adopted by the Judicial Council regarding child custody evaluations. If directed by the court, the court-appointed child custody evaluator shall file a written confidential report on his or her evaluation. At least 10 days before any hearing regarding custody of the child, the report shall be filed with the clerk of the court in which the custody hearing will be conducted and served on the parties or their attorneys, and any other counsel appointed for the child pursuant to Section 3150. The report may be considered by the court.

(b) The report shall not be made available other than as provided in subdivision (a).

(c) The report may be received in evidence on stipulation of all interested parties and is competent evidence as to all matters contained in the report.

~~SEC. 9.~~

SEC. 17. Section 7.6 of the Government Code is amended to read:

1 7.6. (a) If by law, any officer whose office is created by the
2 California Constitution is made a member of a state board,
3 commission, or committee, or of the governing body of any state
4 agency or authority, the officer may designate a deputy of his or
5 her office holding a position specified in subdivision (c) of Section
6 4 of Article VII of the California Constitution to act as the member
7 in the constitutional officer's place and stead, to all intents and
8 purposes as though the constitutional officer was personally
9 present, including the right of the deputy to be counted in
10 constituting a quorum, to participate in the proceedings of the
11 board, commission, committee, or other governing body, and to
12 vote upon any and all matters. The constitutional officer so
13 designating a deputy shall be responsible for the acts of the deputy
14 acting under the designation in the same manner and to the same
15 extent that the constitutional officer is responsible for the acts of
16 the deputy performing his or her official duties as a deputy of the
17 office of the constitutional officer.

18 (b) The Lieutenant Governor may designate any person in his
19 or her office holding a position specified in subdivision (c) or (f)
20 of Section 4 of Article VII of the California Constitution to act as
21 a deputy for the purposes of this section only. However, the
22 Lieutenant Governor may not appoint a person to act as a deputy
23 for him or her at meetings of the Senate, or of the Regents of the
24 University of California, or of the Trustees of the California State
25 University.

26 (c) The Chief Justice of the California Supreme Court may
27 designate a judge or employee of a state court or an employee of
28 the Administrative Office of the Courts to act as a deputy for the
29 purposes of this section.

30 (d) The Attorney General may also designate any person in his
31 or her office holding a position specified in subdivision (m) of
32 Section 4 of Article VII of the California Constitution to act as a
33 deputy for the purpose of this section. However, no person
34 designated by the Attorney General pursuant to this section to act
35 as a member on any state board, commission, committee, or
36 governing body of which the Attorney General is presiding officer
37 shall act as presiding officer in his or her place.

38 (e) The Superintendent of Public Instruction may designate
39 any person in his or her office holding a position specified in
40 Section 2.1 of Article IX of the California Constitution to act as a



deputy for the purposes of this section. However, the Superintendent of Public Instruction may not appoint a person to act as a deputy for him or her at meetings of the State Board of Education, of the Regents of the University of California, or of the Trustees of the California State University.

(f) Notwithstanding subdivisions (a) to (e), inclusive, not more than one officer subject to this section shall be represented by a deputy subject to this section at any meeting or session of the State Lands Commission.

~~SEC. 9.5.~~

SEC. 18. Section 20902.5 is added to the Government Code, to read:

20902.5. (a) Notwithstanding any other provision of this part, whenever the Chief Justice, by formal action, determines that because of an impending curtailment of, or change in the manner of performing, judicial branch services, the best interests of the state would be served by encouraging the retirement of judicial branch state employees from the Administrative Office of the Courts, the Supreme Court, the Courts of Appeal, or the Habeas Corpus Resource Center and that sufficient economies could be realized to offset any costs to the judicial branch resulting from this action, an additional two years of service shall be credited to the affected members, if both of the following conditions exists:

(1) The member is credited with five or more years of service and retires during a period not to exceed 120 days or less than 60 days commencing no sooner than the operative date of the formal action of the Chief Justice that shall specify the period.

(2) The Administrative Office of the Courts transmits to the retirement fund an amount determined by the board that is equal to the actuarial equivalent of the difference between the allowance the member receives after the receipt of service credit under this section and the amount the member would have received without that service credit. The transfer to the retirement fund shall be made in a manner and time period acceptable to the employer and the board with respect to all eligible members who retire during the specified period.

(b) As used in this section, “member” means a state employee who is employed in an organizational unit of the judicial branch designated by the Chief Justice in the formal action crediting the additional service credit.

(c) The amount of service credit shall be two years regardless of credited service. Any member who qualifies under this section shall, upon subsequent reentry to this system, forfeit the service credit acquired under this section.

(d) This section is not applicable to any member otherwise eligible, if the member receives any unemployment insurance payments arising out of employment with an employer subject to this part during a period extending one year beyond the operative date of the formal action of the Chief Justice or if the member is not eligible to retire without the additional credit available under this section.

~~SEC. 10.~~

SEC. 19. Section 68085 of the Government Code is amended to read:

68085. (a) (1) There is hereby established the Trial Court Trust Fund, the proceeds of which shall be apportioned at least quarterly for the purpose of funding trial court operations, as defined in Section 77003. Apportionment payments may not exceed 30 percent of the total annual apportionment to the Trial Court Trust Fund for state trial court funding in any 90-day period.

(2) The apportionment payments shall be made by the Controller. The final payment from the Trial Court Trust Fund for each fiscal year shall be made on or before August 31 of the subsequent fiscal year.

(3) If apportionment payments are made on a quarterly basis, the payments shall be on July 15, October 15, January 15, and April 15. In addition to quarterly payments, a final payment from the Trial Court Trust Fund for each fiscal year may be made on or before August 31 of the subsequent fiscal year.

(4) Notwithstanding any other provision of law, in order to promote statewide efficiency, the Judicial Council may authorize ~~the direct payment of costs for trial court programs, contract costs, or legal and financial services that are available statewide. At least quarterly, the Judicial Council shall request the Controller to transfer amounts from the Trial Court Trust Fund and the Trial Court Improvement Fund as a reimbursement to the support appropriation from which the programs, contract costs, and legal and financial services were paid. This transfer shall be based upon the expenditures incurred by the Judicial Council for trial court programs, contracts entered into by the Judicial Council or the~~

1 ~~Administrative Office of the Courts for trial courts and legal and~~
2 ~~financial services provided to the trial courts. The Judicial Council~~
3 ~~shall provide the Department of Finance with monthly reports on~~
4 ~~expenditures incurred as authorized by this subdivision. The~~
5 ~~Judicial Council shall establish procedures to provide for the~~
6 ~~administration of this paragraph in a way that promotes the~~
7 ~~effective, efficient, reliable, and accountable operation of the trial~~
8 ~~courts; the direct payment or reimbursement or both of actual costs~~
9 ~~from the Trial Court Trust Fund for trial court programs, contract~~
10 ~~costs, or legal and financial services to one or more participating~~
11 ~~courts upon appropriation of funding for these purposes in the~~
12 ~~annual Budget Act. Upon prior written approval of the Director of~~
13 ~~Finance, the Judicial Council may also authorize an increase in~~
14 ~~any reimbursements or direct payments in excess of the amount~~
15 ~~appropriated in the annual Budget Act. For any increases in~~
16 ~~reimbursements or direct payments within the fiscal year that~~
17 ~~exceed two hundred thousand dollars (\$200,000), the Director of~~
18 ~~Finance shall provide notification in writing of any approval~~
19 ~~granted under this section, not less than 30 days prior to the~~
20 ~~effective date of that approval, to the chairperson of the committee~~
21 ~~in each house of the Legislature that considers appropriations, the~~
22 ~~chairpersons of the committees and the appropriate~~
23 ~~subcommittees in each house of the Legislature that consider the~~
24 ~~annual Budget Act, and the Chairperson of the Joint Legislative~~
25 ~~Budget Committee, or not sooner than whatever lesser time the~~
26 ~~Chairperson of the Joint Legislative Budget Committee, or his or~~
27 ~~her designee, may in each instance, determine. The direct payment~~
28 ~~or reimbursement of costs may be supported by the reduction of a~~
29 ~~participating court's allocation from the Trial Court Trust Fund to~~
30 ~~the extent that the court's expenditures for the program are reduced~~
31 ~~and the court is supported by the program. The Judicial Council~~
32 ~~shall provide the affected trial courts with quarterly reports on~~
33 ~~expenditures incurred as authorized by this subdivision. The~~
34 ~~Judicial Council shall establish procedures to provide for the~~
35 ~~administration of this paragraph in a way that promotes the~~
36 ~~effective, efficient, reliable, and accountable operation of the trial~~
37 ~~courts.~~

38 (b) Notwithstanding any other provision of law, the fees listed
39 in subdivision (c) shall all be deposited upon collection in a special

1 account in the county treasury, and transmitted monthly to the
2 Controller for deposit in the Trial Court Trust Fund.

3 (c) (1) Except as specified in subdivision (d), this section
4 applies to all fees collected pursuant to Sections 631.3, 116.230,
5 and 403.060 of the Code of Civil Procedure and Sections 26820.4,
6 26823, 26826, 26826.01, 26827, 26827.4, 26830, 26832.1,
7 26833.1, 26835.1, 26836.1, 26837.1, 26838, 26850.1, 26851.1,
8 26852.1, 26853.1, 26855.4, 26862, 27081.5, 68086, 72055,
9 72056, 72056.01, and 72060.

10 (2) If any of the fees provided for in this subdivision are
11 partially waived by court order, and the fee is to be divided
12 between the Trial Court Trust Fund and any other fund, the amount
13 of the partial waiver shall be deducted from the amount to be
14 distributed to each fund in the same proportion as the amount of
15 each distribution bears to the total amount of the fee.

16 (3) Any amounts transmitted by a county to the Controller for
17 deposit into the Trial Court Trust Fund from fees collected
18 pursuant to Section 27361 between January 1, 1998, and the
19 effective date of this paragraph shall be credited against the total
20 amount the county is required to pay to the state pursuant to
21 paragraph (2) of subdivision (b) of Section 77201 for the 1997–98
22 fiscal year.

23 (d) This section does not apply to that portion of a filing fee
24 collected pursuant to Section 26820.4, 26826, 26827, 72055, or
25 72056 which is allocated for dispute resolution pursuant to Section
26 470.3 of the Business and Professions Code, the county law library
27 pursuant to Section 6320 of the Business and Professions Code, the
28 Judges' Retirement Fund pursuant to Section 26822.3, automated
29 recordkeeping or conversion to micrographics pursuant to
30 Sections 26863 and 68090.7, and courthouse financing pursuant
31 to Section 76238. This section also does not apply to fees collected
32 pursuant to subdivisions (a) and (c) of Section 27361.

33 (e) This section applies to all payments required to be made to
34 the State Treasury by any county or city and county pursuant to
35 Section 77201, 77201.1, or 77205.

36 (f) Notwithstanding any other provision of law, no agency may
37 take action to change the amounts allocated to any of the funds
38 described in subdivision (a), (b), (c), or (d).

39 (g) Before making any apportionments under this section, the
40 Controller shall deduct, from the annual appropriation for that

purpose, the actual administrative costs that will be incurred under this section. Costs reimbursed under this section shall be determined on an annual basis in consultation with the Judicial Council.

(h) Any amounts required to be transmitted by a county or city and county to the state pursuant to this section shall be remitted to the Controller no later than 45 days after the end of the month in which the fees were collected. This remittance shall be accompanied by a remittance advice identifying the collection month and the appropriate account in the Trial Court Trust Fund to which it is to be deposited. Any remittance which is not made by the county or city and county in accordance with this section shall be considered delinquent, and subject to the penalties specified in this section.

(i) Upon receipt of any delinquent payment required pursuant to this section, the Controller shall calculate a penalty on any delinquent payment by multiplying the amount of the delinquent payment at a daily rate equivalent to $1\frac{1}{2}$ percent per month for the number of days the payment is delinquent. Notwithstanding Section 77009, any penalty on a delinquent payment that a court is required to reimburse to a county's general fund pursuant to this section and Section 24353 shall be paid from the Trial Court Operations Fund for that court.

(j) Penalty amounts calculated pursuant to subdivision (i) shall be paid by the county to the Trial Court Trust Fund no later than 45 days after the end of the month in which the penalty was calculated.

(k) The Trial Court Trust Fund shall be invested in the Surplus Money Investment Fund and all interest earned shall be allocated to the Trial Court Trust Fund semiannually and shall be allocated among the courts in accordance with the requirements of subdivision (a). The specific allocations shall be specified by the Judicial Council, based upon recommendations from the Trial Court Budget Commission.

(l) It is the intent of the Legislature that the revenues required to be deposited into the Trial Court Trust Fund be remitted as soon after collection by the courts as possible. Not later than February 1, 2001, the Judicial Council, in consultation with the California State Association of Counties and the California County Auditors Association, shall study and make recommendations to the

1 Legislature on alternative procedures that would improve the
2 collection and remittance of revenues to the Trial Court Trust
3 Fund.

4 ~~SEC. 11.~~

5 *SEC. 20. Section 68087.1 is added to the Government Code,*
6 *to read:*

7 *68087.1. The total amount collected pursuant to paragraph*
8 *(1) of subdivision (c) of Section 68085 and the state surcharge*
9 *imposed by Section 68087 may be rounded up to the nearest whole*
10 *dollar. The clerk of the court shall cause the amount collected*
11 *pursuant to this section to be transmitted to the Trial Court Trust*
12 *Fund.*

13 *SEC. 21. Section 68203.1 of the Government Code is*
14 *amended to read:*

15 *68203.1. (a) Operative January 2, 2002, the salary of the*
16 *position of Chair of the Judicial Council and the position of a*
17 *presiding judge of a superior court which has 15 or more judges,*
18 *and the positions of the administrative presiding justices of the*
19 *Courts of Appeal, shall be increased by that amount that is*
20 *produced by multiplying the salary of each of these judicial offices*
21 *by 4 percent and the salary for the position of a presiding judge of*
22 *a superior court, that has four to 14 judges, shall be increased by*
23 *the amount that is produced by multiplying the salary of that*
24 *judicial office by 2 percent.*

25 *(b) Operative January 2, 2003, the salary for the position of a*
26 *presiding judge of a superior court that has two or three judges,*
27 *shall be increased by the amount that is produced by multiplying*
28 *his or her salary by 2 percent.*

29 *(c) A judge or justice who no longer serves in the position of*
30 *an administrative presiding justice or a presiding judge of a*
31 *superior court shall receive only the salary in effect for judges or*
32 *justices of his or her court.*

33 ~~SEC. 12. Section 68516 of the Government Code is amended~~
34 ~~to read:~~

35 ~~68516. (a) The Judicial Council is authorized to establish a~~
36 ~~tax-exempt public benefit nonprofit corporation, or other~~
37 ~~tax-exempt entity, qualified under federal and state law to receive~~
38 ~~grants or other financial support from private or public sources, for~~
39 ~~the purposes of undertaking or funding any survey, study,~~

1 ~~publication, proceeding, or other activity authorized by law to be~~
2 ~~undertaken by the Judicial Council.~~

3 ~~(b) Employees of the Administrative Office of the Courts may~~
4 ~~establish, staff, and maintain a tax-exempt public benefit nonprofit~~
5 ~~corporation, or other tax-exempt entity as provided under this~~
6 ~~section, if the activities are exclusively directed at research and~~
7 ~~educational programs authorized by the Judicial Council for the~~
8 ~~support of the judiciary.~~

9 ~~SEC. 13.~~

10 *SEC. 22.* Section 69510 of the Government Code is repealed.

11 ~~SEC. 14.~~

12 *SEC. 23.* Section 69510.5 of the Government Code is
13 repealed.

14 ~~SEC. 15.~~

15 *SEC. 24.* Section 69510.6 of the Government Code is
16 repealed.

17 ~~SEC. 16.~~

18 *SEC. 25.* Section 69645 is added to the Government Code, to
19 read:

20 69645. (a) Notwithstanding any other provision of law, each
21 trial court shall determine the number and location of sessions of
22 the court. In making this determination, the court shall consider,
23 among other factors, the impact of this provision on court
24 employees pursuant to Section 71634, the availability and
25 adequacy of facilities for holding the court session at the specific
26 location, the efficiency and cost of holding the session at the
27 specific location, any applicable security issues, and the
28 convenience to the parties and the public served by the court.

29 (b) In appropriate circumstances, upon agreement of the
30 presiding judges of the courts, and in the discretion of the court,
31 the location of a session may be outside the county, except that the
32 consent of the parties shall be necessary to the holding of a criminal
33 jury trial outside the county. The venue of a case whose session is
34 held outside the county pursuant to this section shall be deemed to
35 be the home county of the court in which the matter was filed.
36 Nothing in this section shall provide a party with the right to seek
37 a change of venue unless otherwise provided by statute. No party
38 shall have any right to request the court to exercise its discretion
39 under this section.

1 (c) The Judicial Council may adopt rules that address an
2 appropriate mechanism for sharing of expenses and resources
3 between the court holding the session and the court hosting the
4 session.

5 ~~SEC. 17.~~

6 *SEC. 26.* Section 1328 of the Penal Code is amended to read:

7 1328. (a) A subpoena may be served by any person, except
8 that the defendant may not serve a subpoena in the criminal action
9 to which he or she is a party, but a peace officer shall serve in his
10 or her county any subpoena delivered to him or her for service,
11 either on the part of the people or of the defendant, and shall,
12 without delay, make a written return of the service, subscribed by
13 him or her, stating the time and place of service. The service is
14 made by delivering a copy of the subpoena to the witness
15 personally.

16 (b) (1) If service is to be made on a minor, service shall be
17 made on the minor's parent, guardian, conservator, or similar
18 fiduciary, or if one of them cannot be located with reasonable
19 diligence, then service shall be made on any person having the care
20 or control of the minor or with whom the minor resides or by whom
21 the minor is employed, unless the parent, guardian, conservator,
22 or fiduciary or other specified person is the defendant, and on the
23 minor if the minor is 12 years of age or older. The person served
24 shall have the obligation of producing the minor at the time and
25 place designated in the subpoena. A willful failure to produce the
26 minor is punishable as a contempt pursuant to Section 1218 of the
27 Code of Civil Procedure. The person served shall be allowed the
28 fees and expenses that are provided for subpoenaed witnesses.

29 (2) If the minor is alleged to come within the description of
30 Section 300, 601, or 602 of the Welfare and Institutions Code, and
31 the minor is not residing with a parent or guardian, regardless of
32 the age of the minor, service shall also be made upon the
33 designated agent for service of process at the county child welfare
34 department or the probation department under whose jurisdiction
35 the child has been placed.

36 (3) The court having jurisdiction of the case shall have the
37 power to appoint a guardian ad litem to receive service of a
38 subpoena of the child and shall have the power to produce the child
39 ordered to court under this section.

1 (c) If any peace officer designated in Section 830 is required
2 as a witness before any court or magistrate in any action or
3 proceeding in connection with a matter regarding an event or
4 transaction which he or she has perceived or investigated in the
5 course of his or her duties, a criminal subpoena issued pursuant to
6 this chapter requiring his or her attendance may be served either
7 by delivering a copy to the peace officer personally or by
8 delivering two copies to his or her immediate superior or agent
9 designated by his or her immediate superior to receive the service
10 or, in those counties where the local agencies have consented with
11 the marshal's office or sheriff's office, where appropriate, to
12 participate, by sending a copy by electronic means, including
13 electronic mail, computer modem, facsimile, or other electronic
14 means, to his or her immediate superior or agent designated by the
15 immediate superior to receive the service. If the service is made by
16 electronic means, the immediate superior or agency designated by
17 his or her immediate superior shall acknowledge receipt of the
18 subpoena by telephone or electronic means to the sender of origin.
19 If service is made upon the immediate superior or agent designated
20 by the immediate superior, the immediate superior or the agent
21 shall deliver a copy of the subpoena to the peace officer as soon as
22 possible and in no event later than a time which will enable the
23 peace officer to comply with the subpoena.

24 (d) If the immediate superior or his or her designated agent
25 upon whom service is attempted to be made knows he or she will
26 be unable to deliver a copy of the subpoena to the peace officer
27 within a time which will allow the peace officer to comply with the
28 subpoena, the immediate superior or agent may refuse to accept
29 service of process and is excused from any duty, liability, or
30 penalty arising in connection with the service, upon notifying the
31 server of that fact.

32 (e) If the immediate superior or his or her agent is tendered
33 service of a subpoena less than five working days prior to the date
34 of hearing, and he or she is not reasonably certain he or she can
35 complete the service, he or she may refuse acceptance.

36 (f) If the immediate superior or agent upon whom service has
37 been made, subsequently determines that he or she will be unable
38 to deliver a copy of the subpoena to the peace officer within a time
39 which will allow the peace officer to comply with the subpoena,
40 the immediate superior or agent shall notify the server or his or her

1 office or agent not less than 48 hours prior to the hearing date
2 indicated on the subpoena, and is thereby excused from any duty,
3 liability, or penalty arising because of his or her failure to deliver
4 a copy of the subpoena to the peace officer. The server, so notified,
5 is therewith responsible for preparing the written return of service
6 and for notifying the originator of the subpoena if required.

7 (g) Notwithstanding subdivision (c), in the case of peace
8 officers employed by the California Highway Patrol, if service is
9 made upon the immediate superior or upon an agent designated by
10 the immediate superior of the peace officer, the immediate
11 superior or the agent shall deliver a copy of the subpoena to the
12 peace officer on the officer's first workday following acceptance
13 of service of process. In this case, failure of the immediate superior
14 or the designated agent to deliver the subpoena shall not constitute
15 a defect in service.

16 ~~SEC. 17.2.~~

17 *SEC. 27.* Section 1513.1 of the Probate Code is amended to
18 read:

19 1513.1. (a) Each court or county shall assess (1) the parent,
20 parents, or other person charged with the support and maintenance
21 of the ward or proposed ward, and (2) the guardian, proposed
22 guardian, or the estate of the ward or proposed ward, for court or
23 county expenses incurred for any investigation or review
24 conducted by the court investigator, probation officer, or domestic
25 relations investigator. The court may order reimbursement to the
26 court or to the county in the amount of the assessment, unless the
27 court finds that all or any part of the assessment would impose a
28 hardship on the ward or the ward's estate. A county may waive any
29 or all of an assessment against the guardianship on the basis of
30 hardship. There shall be a rebuttable presumption that the
31 assessment would impose a hardship if the ward is receiving
32 Medi-Cal benefits.

33 (b) Any amount chargeable as state-mandated local costs
34 incurred by a county for the cost of the investigation or review
35 shall be reduced by any assessments actually collected by the
36 county pursuant to subdivision (a) during that fiscal year.

37 ~~SEC. 17.4.~~

38 *SEC. 28.* Section 1851 of the Probate Code is amended to
39 read:

1 1851. (a) When court review is required, the court
2 investigator shall visit the conservatee. The court investigator shall
3 inform the conservatee personally that the conservatee is under a
4 conservatorship and shall give the name of the conservator to the
5 conservatee. The court investigator shall determine whether the
6 conservatee wishes to petition the court for termination of the
7 conservatorship, whether the conservatee is still in need of the
8 conservatorship, whether the present conservator is acting in the
9 best interests of the conservatee, and whether the conservatee is
10 capable of completing an affidavit of voter registration. If the court
11 has made an order under Chapter 4 (commencing with Section
12 1870), the court investigator shall determine whether the present
13 condition of the conservatee is such that the terms of the order
14 should be modified or the order revoked.

15 (b) The findings of the court investigator, including the facts
16 upon which the findings are based, shall be certified in writing to
17 the court not less than 15 days prior to the date of review. A copy
18 of the report shall be mailed to the conservator and to the attorneys
19 of record for the conservator and conservatee at the same time it
20 is certified to the court.

21 (c) In the case of a limited conservatee, the court investigator
22 shall make a recommendation regarding the continuation or
23 termination of the limited conservatorship.

24 (d) The court investigator may personally visit the conservator
25 and other persons as may be necessary to determine whether the
26 present conservator is acting in the best interests of the
27 conservatee.

28 (e) The report required by this section shall be confidential and
29 shall be made available only to parties, persons given notice of the
30 petition who have requested the report or who have appeared in the
31 proceeding, their attorneys, and the court. The court shall have
32 discretion at any other time to release the report if it would serve
33 the interests of the conservatee. The clerk of the court shall make
34 provision for limiting disclosure of the report exclusively to
35 persons entitled thereto under this section.

36 ~~SEC. 17.6.~~

37 *SEC. 29.* Section 1851.5 of the Probate Code is amended to
38 read:

39 1851.5. Each court shall assess each conservatee in the county
40 for any investigation or review conducted by a court investigator

1 with respect to that person. The court may order reimbursement to
2 the court for the amount of the assessment, unless the court finds
3 that all or any part of the assessment would impose a hardship on
4 conservatee or the conservatee's estate. There shall be a rebuttable
5 presumption that the assessment would impose a hardship if the
6 conservatee is receiving Medi-Cal benefits.

7 ~~SEC. 18.~~

8 *SEC. 30.* Section 213.5 of the Welfare and Institutions Code
9 is amended to read:

10 213.5. (a) After a petition has been filed pursuant to Section
11 311 to declare a child a dependent child of the juvenile court, and
12 until the time that the petition is dismissed or dependency is
13 terminated, upon application in the manner provided by Section
14 527 of the Code of Civil Procedure, the juvenile court may issue
15 ex parte orders (1) enjoining any person from molesting, attacking,
16 striking, sexually assaulting, stalking, or battering the child or any
17 other child in the household; (2) excluding any person from the
18 dwelling of the person who has care, custody, and control of the
19 child; and (3) enjoining any person from behavior, including
20 contacting, threatening, or disturbing the peace of the child, that
21 the court determines is necessary to effectuate orders under
22 paragraph (1) or (2). A court issuing an ex parte order pursuant to
23 this subdivision may simultaneously issue an ex parte order
24 enjoining any person from contacting, threatening, molesting,
25 attacking, striking, sexually assaulting, stalking, battering, or
26 disturbing the peace of any parent, legal guardian, or current
27 caretaker of the child, regardless of whether the child resides with
28 that parent, legal guardian, or current caretaker, upon application
29 in the manner provided by Section 527 of the Code of Civil
30 Procedure.

31 (b) After a petition has been filed pursuant to Section 601 or
32 602 to declare a child a ward of the juvenile court, and until the
33 time that the petition is dismissed or wardship is terminated, upon
34 application in the manner provided by Section 527 of the Code of
35 Civil Procedure, the juvenile court may issue ex parte orders (1)
36 enjoining any person from molesting, attacking, threatening,
37 sexually assaulting, stalking, or battering the child; (2) excluding
38 any person from the dwelling of the person who has care, custody,
39 and control of the child; or (3) enjoining the child from contacting,
40 threatening, stalking, or disturbing the peace of any person the

1 court finds to be at risk from the conduct of the child, or with whom
2 association would be detrimental to the child.

3 (c) In the case in which a temporary restraining order is granted
4 without notice, the matter shall be made returnable on an order
5 requiring cause to be shown why the order should not be granted,
6 on the earliest day that the business of the court will permit, but not
7 later than 15 days or, if good cause appears to the court, 20 days
8 from the date the temporary restraining order is granted. The court
9 may, on the motion of the person seeking the restraining order, or
10 on its own motion, shorten the time for service on the person to be
11 restrained of the order to show cause. The court may, upon its own
12 motion or the filing of an affidavit by the person seeking the
13 restraining order, find that the person to be restrained could not be
14 served within the time required by law and to reissue an order
15 previously issued and dissolved by the court for failure to serve the
16 person to be restrained. The reissued order shall state on its face
17 the date of expiration of the order. Any hearing pursuant to this
18 section may be held simultaneously with any regularly scheduled
19 hearings held in proceedings to declare a child a dependent child
20 or ward of the juvenile court pursuant to Section 300, 601, or 602,
21 or subsequent hearings regarding the dependent child or ward.

22 (d) The juvenile court may issue, upon notice and a hearing,
23 any of the orders set forth in subdivisions (a), (b), and (c). Any
24 restraining order granted pursuant to this subdivision shall remain
25 in effect, in the discretion of the court, not to exceed three years,
26 unless otherwise terminated by the court, extended by mutual
27 consent of all parties to the restraining order, or extended by
28 further order of the court on the motion of any party to the
29 restraining order.

30 (e) (1) The juvenile court may issue an order made pursuant to
31 subdivision (a), (c), or (d) excluding a person from a residence or
32 dwelling. This order may be issued for the time and on the
33 conditions that the court determines, regardless of which party
34 holds legal or equitable title or is the lessee of the residence or
35 dwelling.

36 (2) The court may issue an order under paragraph (1) only on
37 a showing of all of the following:

38 (A) Facts sufficient for the court to ascertain that the party who
39 will stay in the dwelling has a right under color of law to possession
40 of the premises.

1 (B) That the party to be excluded has assaulted or threatens to
2 assault the other party or any other person under the care, custody,
3 and control of the other party, or any minor child of the parties or
4 of the other party.

5 (C) That physical or emotional harm would otherwise result to
6 the other party, to any person under the care, custody, and control
7 of the other party, or to any minor child of the parties or of the other
8 party.

9 (f) Any order issued pursuant to subdivision (a), (b), (c), or (d)
10 shall state on its face the date of expiration of the order.

11 (g) The juvenile court shall order any designated person or
12 attorney to mail a copy of any order, or extension, modification,
13 or termination thereof, granted pursuant to subdivision (a), (b), (c),
14 or (d), by the close of the business day on which the order,
15 extension, modification, or termination was granted, and any
16 subsequent proof of service thereof, to each local law enforcement
17 agency designated by the person seeking the restraining order or
18 his or her attorney having jurisdiction over the residence of the
19 person who has care, custody, and control of the child and other
20 locations where the court determines that acts of domestic violence
21 or abuse against the child or children are likely to occur. Each
22 appropriate law enforcement agency shall make available through
23 an existing system for verification, information as to the existence,
24 terms, and current status of any order issued pursuant to
25 subdivision (a), (b), (c), or (d) to any law enforcement officer
26 responding to the scene of reported domestic violence or abuse.

27 (h) Any willful and knowing violation of any order granted
28 pursuant to subdivision (a), (b), (c), or (d) shall be a misdemeanor
29 punishable under Section 273.65 of the Penal Code.

30 (i) A juvenile court restraining order related to domestic
31 violence issued by a court pursuant to this section shall be issued
32 on forms adopted by the Judicial Council of California and that
33 have been approved by the Department of Justice pursuant to
34 subdivision (i) of Section 6380 of the Family Code. However, the
35 fact that an order issued by a court pursuant to this section was not
36 issued on forms adopted by the Judicial Council and approved by
37 the Department of Justice shall not, in and of itself, make the order
38 unenforceable.

39 (j) Information on any juvenile court restraining order related
40 to domestic violence issued by a court pursuant to this section shall

be transmitted to the Department of Justice in accordance with subdivision (b) of Section 6380 of the Family Code.

(k) (1) Prior to a hearing on the issuance or denial of an order under this part, a search shall be conducted as described in subdivision (a) Section 6306 of the Family Code.

(2) Prior to deciding whether to issue an order under this part, the court shall consider the following information obtained pursuant to a search conducted under paragraph (1): any conviction for a violent felony specified in Section 667.5 of the Penal Code or a serious felony specified in Section 1192.7 of the Penal Code; any misdemeanor conviction involving domestic violence, weapons, or other violence; any outstanding warrant; parole or probation status; any prior restraining order; and any violation of a prior restraining order.

(3) (A) If the results of the search conducted pursuant to paragraph (1) indicate that an outstanding warrant exists against the subject of the search, the court shall order the clerk of the court to immediately notify, by the most effective means available, appropriate law enforcement officials of any information obtained through the search that the court determines is appropriate. The law enforcement officials so notified shall take all actions necessary to execute any outstanding warrants or any other actions, as appropriate and as soon as practicable.

(B) If the results of the search conducted pursuant to paragraph (1) indicate that the subject of the search is currently on parole or probation, the court shall order the clerk of the court to immediately notify, by the most effective means available, the appropriate parole or probation officer of any information obtained through the search that the court determines is appropriate. The parole or probation officer so notified shall take all actions necessary to revoke any parole or probation, or any other actions, with respect to the subject person, as appropriate and as soon as practicable.

(l) Upon making any order for custody or visitation pursuant to this section, the court shall follow the procedures specified in subdivisions (c) and (d) of Section 6323 of the Family Code.

~~SEC. 19.—Section 827 of the Welfare and Institutions Code is amended to read:~~

~~827.—(a) (1) Except as provided in Section 828, a case file may be inspected only by the following:~~

1 ~~(A) Court personnel.~~

2 ~~(B) The district attorney, a city attorney, or city prosecutor~~
3 ~~authorized to prosecute criminal or juvenile cases under state law.~~

4 ~~(C) The minor who is the subject of the proceeding.~~

5 ~~(D) His or her parents or guardian.~~

6 ~~(E) The attorneys for the parties, including attorneys who~~
7 ~~represent persons who are, or have been, the subjects of petitions~~
8 ~~pursuant to Section 300, 601, or 602 for the purpose of other~~
9 ~~administrative or judicial proceedings, and judges, referees, other~~
10 ~~hearing officers, probation officers and law enforcement officers~~
11 ~~who are actively participating in criminal or juvenile proceedings~~
12 ~~involving the minor.~~

13 ~~(F) The superintendent or designee of the school district where~~
14 ~~the minor is enrolled or attending school.~~

15 ~~(G) Members of the child protective agencies as defined in~~
16 ~~Section 11165.9 of the Penal Code.~~

17 ~~(H) The State Department of Social Services to carry out its~~
18 ~~duties pursuant to Division 9 (commencing with Section 10000),~~
19 ~~and Part 5 (commencing with Section 7900) of Division 12 of the~~
20 ~~Family Code to oversee and monitor county child welfare~~
21 ~~agencies, children in foster care or receiving foster care assistance,~~
22 ~~and out-of-state placements.~~

23 ~~(I) To authorized legal staff or special investigators who are~~
24 ~~peace officers who are employed by, or who are authorized~~
25 ~~representatives of, the State Department of Social Services, as~~
26 ~~necessary to the performance of their duties to inspect, license, and~~
27 ~~investigate community care facilities, and to ensure that the~~
28 ~~standards of care and services provided in those facilities are~~
29 ~~adequate and appropriate and to ascertain compliance with the~~
30 ~~rules and regulations to which the facilities are subject. The~~
31 ~~confidential information shall remain confidential except for~~
32 ~~purposes of inspection, licensing, or investigation pursuant to~~
33 ~~Chapter 3 (commencing with Section 1500) and Chapter 3.4~~
34 ~~(commencing with Section 1596.70) of Division 2 of the Health~~
35 ~~and Safety Code, or a criminal, civil, or administrative proceeding~~
36 ~~in relation thereto. The confidential information may be used by~~
37 ~~the State Department of Social Services in a criminal, civil, or~~
38 ~~administrative proceeding. The confidential information shall be~~
39 ~~available only to the judge or hearing officer and to the parties to~~
40 ~~the case. Names that are confidential shall be listed in attachments~~

1 ~~separate to the general pleadings. The confidential information~~
2 ~~shall be sealed after the conclusion of the criminal, civil, or~~
3 ~~administrative hearings, and shall not subsequently be released~~
4 ~~except in accordance with this subdivision. If the confidential~~
5 ~~information does not result in a criminal, civil, or administrative~~
6 ~~proceeding, it shall be sealed after the State Department of Social~~
7 ~~Services decides that no further action will be taken in the matter~~
8 ~~of suspected licensing violations. Except as otherwise provided in~~
9 ~~this subdivision, confidential information in the possession of the~~
10 ~~State Department of Social Services shall not contain the name of~~
11 ~~the minor.~~

12 ~~(J) Members of children's multidisciplinary teams, persons or~~
13 ~~agencies providing treatment or supervision of the minor.~~

14 ~~(K) A judge, commissioner, or other hearing officer assigned~~
15 ~~to a family law case with issues concerning custody or visitation,~~
16 ~~or both, involving the minor, and the following persons, if actively~~
17 ~~participating in the family law case: a family court mediator~~
18 ~~assigned to a case involving the minor pursuant to Article 1~~
19 ~~(commencing with Section 3160) of Chapter 11 of Part 2 of~~
20 ~~Division 8 of the Family Code, a child custody evaluator appointed~~
21 ~~by the court pursuant to Section 3118 of the Family Code, and~~
22 ~~counsel appointed for the minor in the family law case pursuant to~~
23 ~~Section 3150 of the Family Code. Prior to allowing counsel~~
24 ~~appointed for the minor in the family law case to inspect the file,~~
25 ~~the court clerk may require counsel to provide a certified copy of~~
26 ~~the court order appointing him or her as the minor's counsel.~~

27 ~~(L) Juvenile justice commissions as established under Section~~
28 ~~225. The confidentiality provisions of Section 10850 shall apply~~
29 ~~to a juvenile justice commission and its members.~~

30 ~~(M) Any other person who may be designated by court order~~
31 ~~of the judge of the juvenile court upon filing a petition.~~

32 ~~(2) Notwithstanding any other law and subject to subparagraph~~
33 ~~(A) of paragraph (3), juvenile case files, except those relating to~~
34 ~~matters within the jurisdiction of the court pursuant to Section 601~~
35 ~~or 602, which pertain to a deceased child who was within the~~
36 ~~jurisdiction of the juvenile court pursuant to Section 300, shall be~~
37 ~~released to the public pursuant to an order by the juvenile court~~
38 ~~after a petition has been filed and interested parties have been~~
39 ~~afforded an opportunity to file an objection. Any information~~
40 ~~relating to another child or which could identify another child,~~

1 except for information about the deceased, shall be redacted from
2 the juvenile case file prior to release, unless a specific order is
3 made by the juvenile court to the contrary. Except as provided in
4 this paragraph, the presiding judge of the juvenile court may issue
5 an order prohibiting or limiting access to the juvenile case file, or
6 any portion thereof, of a deceased child only upon a showing that
7 release of the juvenile case file or any portion thereof is
8 detrimental to the safety, protection, or physical, or emotional
9 well-being of another child who is directly or indirectly connected
10 to the juvenile case that is the subject of the petition.

11 (3) Access to juvenile case files pertaining to matters within the
12 jurisdiction of the juvenile court pursuant to Section 300 shall be
13 limited as follows:

14 (A) If a juvenile case file, or any portion thereof, is privileged
15 or confidential pursuant to any other state law or federal law or
16 regulation, the requirements of that state law or federal law or
17 regulation prohibiting or limiting release of the juvenile case file
18 or any portions thereof shall prevail. Unless a person is listed in
19 subparagraphs (A) to (L), inclusive, of paragraph (1) and is
20 entitled to access under the other state law or federal law or
21 regulation without a court order, all those seeking access, pursuant
22 to other authorization, to portions of, or information relating to the
23 contents of, juvenile case files protected under another state law
24 or federal law or regulation, shall petition the juvenile court. The
25 juvenile court may only release the portion of, or information
26 relating to the contents of, juvenile case files protected by another
27 state law or federal law or regulation if disclosure is not
28 detrimental to the safety, protection, or physical or emotional
29 well-being of a child who is directly or indirectly connected to the
30 juvenile case that is the subject of the petition. This paragraph shall
31 not be construed to limit the ability of the juvenile court to carry
32 out its duties in conducting juvenile court proceedings.

33 (B) Prior to the release of the juvenile case file or any portion
34 thereof, the court shall afford due process, including a notice of
35 and an opportunity to file an objection to the release of the record
36 or report to all interested parties.

37 (4) A juvenile case file, any portion thereof, and information
38 relating to the content of the juvenile case file, shall not be
39 disseminated by the receiving agencies to any persons or agencies,
40 other than those persons or agencies authorized to receive

1 documents pursuant to this section. Further, a juvenile case file,
2 any portion thereof, and information relating to the content of the
3 juvenile case file, shall not be made as an attachment to any other
4 documents without the prior approval of the presiding judge of the
5 juvenile court, unless it is used in connection with and in the course
6 of a criminal investigation or a proceeding brought to declare a
7 person a dependent child or ward of the juvenile court.

8 (b) (1) While the Legislature reaffirms its belief that juvenile
9 court records, in general, should be confidential, it is the intent of
10 the Legislature in enacting this subdivision to provide for a limited
11 exception to juvenile court record confidentiality to promote more
12 effective communication among juvenile courts, family courts,
13 law enforcement agencies, and schools to ensure the rehabilitation
14 of juvenile criminal offenders as well as to lessen the potential for
15 drug use, violence, other forms of delinquency, and child abuse.

16 (2) Notwithstanding subdivision (a), written notice that a
17 minor enrolled in a public school, kindergarten to grade 12,
18 inclusive, has been found by a court of competent jurisdiction to
19 have committed any felony or any misdemeanor involving curfew,
20 gambling, alcohol, drugs, tobacco products, carrying of weapons,
21 a sex offense listed in Section 290 of the Penal Code, assault or
22 battery, larceny, vandalism, or graffiti shall be provided by the
23 court, within seven days, to the superintendent of the school
24 district of attendance. Written notice shall include only the offense
25 found to have been committed by the minor and the disposition of
26 the minor's case. This notice shall be expeditiously transmitted by
27 the district superintendent to the principal at the school of
28 attendance. The principal shall expeditiously disseminate the
29 information to those counselors directly supervising or reporting
30 on the behavior or progress of the minor. In addition, the principal
31 shall disseminate the information to any teacher or administrator
32 directly supervising or reporting on the behavior or progress of the
33 minor whom the principal believes needs the information to work
34 with the pupil in an appropriate fashion, to avoid being needlessly
35 vulnerable or to protect other persons from needless vulnerability.

36 Any information received by a teacher, counselor, or
37 administrator under this subdivision shall be received in
38 confidence for the limited purpose of rehabilitating the minor and
39 protecting students and staff, and shall not be further disseminated
40 by the teacher, counselor, or administrator, except insofar as

1 communication with the juvenile, his or her parents or guardians,
2 law enforcement personnel, and the juvenile's probation officer is
3 necessary to effectuate the juvenile's rehabilitation or to protect
4 students and staff.

5 An intentional violation of the confidentiality provisions of this
6 paragraph is a misdemeanor punishable by a fine not to exceed five
7 hundred dollars (\$500).

8 (3) If a minor is removed from public school as a result of the
9 court's finding described in subdivision (b), the superintendent
10 shall maintain the information in a confidential file and shall defer
11 transmittal of the information received from the court until the
12 minor is returned to public school. If the minor is returned to a
13 school district other than the one from which the minor came, the
14 parole or probation officer having jurisdiction over the minor shall
15 so notify the superintendent of the last district of attendance, who
16 shall transmit the notice received from the court to the
17 superintendent of the new district of attendance.

18 (e) Each probation report filed with the court concerning a
19 minor whose record is subject to dissemination pursuant to
20 subdivision (b) shall include on the face sheet the school at which
21 the minor is currently enrolled. The county superintendent shall
22 provide the court with a listing of all of the schools within each
23 school district, within the county, along with the name and mailing
24 address of each district superintendent.

25 (d) Each notice sent by the court pursuant to subdivision (b)
26 shall be stamped with the instruction: "Unlawful Dissemination
27 Of This Information Is A Misdemeanor." Any information
28 received from the court shall be kept in a separate confidential file
29 at the school of attendance and shall be transferred to the minor's
30 subsequent schools of attendance and maintained until the minor
31 graduates from high school, is released from juvenile court
32 jurisdiction, or reaches the age of 18, whichever occurs first. After
33 that time the confidential record shall be destroyed. At any time
34 after the date by which a record required to be destroyed by this
35 section should have been destroyed, the minor or his or her parent
36 or guardian shall have the right to make a written request to the
37 principal of the school that the minor's school records be reviewed
38 to ensure that the record has been destroyed. Upon completion of
39 any requested review and no later than 30 days after the request for
40 the review was received, the principal or his or her designee shall

1 respond in writing to the written request and either shall confirm
2 that the record has been destroyed or, if the record has not been
3 destroyed, shall explain why destruction has not yet occurred.

4 Except as provided in paragraph (2) of subdivision (b), no
5 liability shall attach to any person who transmits or fails to transmit
6 any notice or information required under subdivision (b).

7 (e) For purposes of this section, a “juvenile case file” means
8 a petition filed in any juvenile court proceeding, reports of the
9 probation officer, and all other documents filed in that case or
10 made available to the probation officer in making his or her report,
11 or to the judge, referee, or other hearing officer, and thereafter
12 retained by the probation officer, judge, referee, or other hearing
13 officer.

14 SEC. 20.—Section 827 of the Welfare and Institutions Code is
15 amended to read:

16 827. (a) (1) Except as provided in Section 828, a case file
17 may be inspected only by the following:

18 (A) Court personnel.

19 (B) The district attorney, a city attorney, or city prosecutor
20 authorized to prosecute criminal or juvenile cases under state law.

21 (C) The minor who is the subject of the proceeding.

22 (D) His or her parents or guardian.

23 (E) The attorneys for the parties, including attorneys who
24 represent persons who are, or have been, the subjects of petitions
25 pursuant to Section 300, 601, or 602 for the purpose of other
26 administrative or judicial proceedings, and judges, referees, other
27 hearing officers, probation officers and law enforcement officers
28 who are actively participating in criminal or juvenile proceedings
29 involving the minor.

30 (F) The superintendent or designee of the school district where
31 the minor is enrolled or attending school.

32 (G) Members of the child protective agencies as defined in
33 Section 11165.9 of the Penal Code.

34 (H) The State Department of Social Services to carry out its
35 duties pursuant to Division 9 (commencing with Section 10000),
36 and Part 5 (commencing with Section 7900) of Division 12 of the
37 Family Code to oversee and monitor county child welfare
38 agencies, children in foster care or receiving foster care assistance,
39 and out-of-state placements.

~~(I) To authorized legal staff or special investigators who are peace officers who are employed by, or who are authorized representatives of, the State Department of Social Services, as necessary to the performance of their duties to inspect, license, and investigate community care facilities, and to ensure that the standards of care and services provided in those facilities are adequate and appropriate and to ascertain compliance with the rules and regulations to which the facilities are subject. The confidential information shall remain confidential except for purposes of inspection, licensing, or investigation pursuant to Chapter 3 (commencing with Section 1500) and Chapter 3.4 (commencing with Section 1596.70) of Division 2 of the Health and Safety Code, or a criminal, civil, or administrative proceeding in relation thereto. The confidential information may be used by the State Department of Social Services in a criminal, civil, or administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names that are confidential shall be listed in attachments separate to the general pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative hearings, and shall not subsequently be released except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department of Social Services decides that no further action will be taken in the matter of suspected licensing violations. Except as otherwise provided in this subdivision, confidential information in the possession of the State Department of Social Services shall not contain the name of the minor.~~

~~(J) Members of children's multidisciplinary teams, persons or agencies providing treatment or supervision of the minor.~~

~~(K) A judge, commissioner, or other hearing officer assigned to a family law case with issues concerning custody or visitation, or both, involving the minor, and the following persons, if actively participating in the family law case: a family court mediator assigned to a case involving the minor pursuant to Article 4 (commencing with Section 3160) of Chapter 11 of Part 2 of Division 8 of the Family Code, a court-appointed evaluator or a person conducting a court-connected child custody evaluation, investigation, or assessment pursuant to Section 3118 of the~~

1 ~~Family Code, and counsel appointed for the minor in the family~~
2 ~~law case pursuant to Section 3150 of the Family Code. Prior to~~
3 ~~allowing counsel appointed for the minor in the family law case to~~
4 ~~inspect the file, the court clerk may require counsel to provide a~~
5 ~~certified copy of the court order appointing him or her as the~~
6 ~~minor's counsel.~~

7 ~~(L) Juvenile justice commissions as established under Section~~
8 ~~225. The confidentiality provisions of Section 10850 shall apply~~
9 ~~to a juvenile justice commission and its members.~~

10 ~~(M) Any other person who may be designated by court order~~
11 ~~of the judge of the juvenile court upon filing a petition.~~

12 ~~(2) Notwithstanding any other law and subject to subparagraph~~
13 ~~(A) of paragraph (3), juvenile case files, except those relating to~~
14 ~~matters within the jurisdiction of the court pursuant to Section 601~~
15 ~~or 602, which pertain to a deceased child who was within the~~
16 ~~jurisdiction of the juvenile court pursuant to Section 300, shall be~~
17 ~~released to the public pursuant to an order by the juvenile court~~
18 ~~after a petition has been filed and interested parties have been~~
19 ~~afforded an opportunity to file an objection. Any information~~
20 ~~relating to another child or which could identify another child,~~
21 ~~except for information about the deceased, shall be redacted from~~
22 ~~the juvenile case file prior to release, unless a specific order is~~
23 ~~made by the juvenile court to the contrary. Except as provided in~~
24 ~~this paragraph, the presiding judge of the juvenile court may issue~~
25 ~~an order prohibiting or limiting access to the juvenile case file, or~~
26 ~~any portion thereof, of a deceased child only upon a showing that~~
27 ~~release of the juvenile case file or any portion thereof is~~
28 ~~detrimental to the safety, protection, or physical, or emotional~~
29 ~~well-being of another child who is directly or indirectly connected~~
30 ~~to the juvenile case that is the subject of the petition.~~

31 ~~(3) Access to juvenile case files pertaining to matters within the~~
32 ~~jurisdiction of the juvenile court pursuant to Section 300 shall be~~
33 ~~limited as follows:~~

34 ~~(A) If a juvenile case file, or any portion thereof, is privileged~~
35 ~~or confidential pursuant to any other state law or federal law or~~
36 ~~regulation, the requirements of that state law or federal law or~~
37 ~~regulation prohibiting or limiting release of the juvenile case file~~
38 ~~or any portions thereof shall prevail. Unless a person is listed in~~
39 ~~subparagraphs (A) to (L), inclusive, of paragraph (1) and is~~
40 ~~entitled to access under the other state law or federal law or~~

1 ~~regulation without a court order, all those seeking access, pursuant~~
2 ~~to other authorization, to portions of, or information relating to the~~
3 ~~contents of, juvenile case files protected under another state law~~
4 ~~or federal law or regulation, shall petition the juvenile court. The~~
5 ~~juvenile court may only release the portion of, or information~~
6 ~~relating to the contents of, juvenile case files protected by another~~
7 ~~state law or federal law or regulation if disclosure is not~~
8 ~~detrimental to the safety, protection, or physical or emotional~~
9 ~~well-being of a child who is directly or indirectly connected to the~~
10 ~~juvenile case that is the subject of the petition. This paragraph shall~~
11 ~~not be construed to limit the ability of the juvenile court to carry~~
12 ~~out its duties in conducting juvenile court proceedings.~~

13 ~~(B) Prior to the release of the juvenile case file or any portion~~
14 ~~thereof, the court shall afford due process, including a notice of~~
15 ~~and an opportunity to file an objection to the release of the record~~
16 ~~or report to all interested parties.~~

17 ~~(4) A juvenile case file, any portion thereof, and information~~
18 ~~relating to the content of the juvenile case file, shall not be~~
19 ~~disseminated by the receiving agencies to any persons or agencies,~~
20 ~~other than those persons or agencies authorized to receive~~
21 ~~documents pursuant to this section. Further, a juvenile case file,~~
22 ~~any portion thereof, and information relating to the content of the~~
23 ~~juvenile case file, shall not be made as an attachment to any other~~
24 ~~documents without the prior approval of the presiding judge of the~~
25 ~~juvenile court, unless it is used in connection with and in the course~~
26 ~~of a criminal investigation or a proceeding brought to declare a~~
27 ~~person a dependent child or ward of the juvenile court.~~

28 ~~(b) (1) While the Legislature reaffirms its belief that juvenile~~
29 ~~court records, in general, should be confidential, it is the intent of~~
30 ~~the Legislature in enacting this subdivision to provide for a limited~~
31 ~~exception to juvenile court record confidentiality to promote more~~
32 ~~effective communication among juvenile courts, family courts,~~
33 ~~law enforcement agencies, and schools to ensure the rehabilitation~~
34 ~~of juvenile criminal offenders as well as to lessen the potential for~~
35 ~~drug use, violence, other forms of delinquency, and child abuse.~~

36 ~~(2) Notwithstanding subdivision (a), written notice that a~~
37 ~~minor enrolled in a public school, kindergarten to grade 12,~~
38 ~~inclusive, has been found by a court of competent jurisdiction to~~
39 ~~have committed any felony or any misdemeanor involving curfew,~~
40 ~~gambling, alcohol, drugs, tobacco products, carrying of weapons,~~

1 a sex offense listed in Section 290 of the Penal Code, assault or
2 battery, larceny, vandalism, or graffiti shall be provided by the
3 court, within seven days, to the superintendent of the school
4 district of attendance. Written notice shall include only the offense
5 found to have been committed by the minor and the disposition of
6 the minor's case. This notice shall be expeditiously transmitted by
7 the district superintendent to the principal at the school of
8 attendance. The principal shall expeditiously disseminate the
9 information to those counselors directly supervising or reporting
10 on the behavior or progress of the minor. In addition, the principal
11 shall disseminate the information to any teacher or administrator
12 directly supervising or reporting on the behavior or progress of the
13 minor whom the principal believes needs the information to work
14 with the pupil in an appropriate fashion, to avoid being needlessly
15 vulnerable or to protect other persons from needless vulnerability.

16 Any information received by a teacher, counselor, or
17 administrator under this subdivision shall be received in
18 confidence for the limited purpose of rehabilitating the minor and
19 protecting students and staff, and shall not be further disseminated
20 by the teacher, counselor, or administrator, except insofar as
21 communication with the juvenile, his or her parents or guardians,
22 law enforcement personnel, and the juvenile's probation officer is
23 necessary to effectuate the juvenile's rehabilitation or to protect
24 students and staff.

25 An intentional violation of the confidentiality provisions of this
26 paragraph is a misdemeanor punishable by a fine not to exceed five
27 hundred dollars (\$500).

28 (3) If a minor is removed from public school as a result of the
29 court's finding described in subdivision (b), the superintendent
30 shall maintain the information in a confidential file and shall defer
31 transmittal of the information received from the court until the
32 minor is returned to public school. If the minor is returned to a
33 school district other than the one from which the minor came, the
34 parole or probation officer having jurisdiction over the minor shall
35 so notify the superintendent of the last district of attendance, who
36 shall transmit the notice received from the court to the
37 superintendent of the new district of attendance.

38 (c) Each probation report filed with the court concerning a
39 minor whose record is subject to dissemination pursuant to
40 subdivision (b) shall include on the face sheet the school at which

1 the minor is currently enrolled. The county superintendent shall
2 provide the court with a listing of all of the schools within each
3 school district, within the county, along with the name and mailing
4 address of each district superintendent.

5 (d) Each notice sent by the court pursuant to subdivision (b)
6 shall be stamped with the instruction: “Unlawful Dissemination
7 Of This Information Is A Misdemeanor.” Any information
8 received from the court shall be kept in a separate confidential file
9 at the school of attendance and shall be transferred to the minor’s
10 subsequent schools of attendance and maintained until the minor
11 graduates from high school, is released from juvenile court
12 jurisdiction, or reaches the age of 18, whichever occurs first. After
13 that time the confidential record shall be destroyed. At any time
14 after the date by which a record required to be destroyed by this
15 section should have been destroyed, the minor or his or her parent
16 or guardian shall have the right to make a written request to the
17 principal of the school that the minor’s school records be reviewed
18 to ensure that the record has been destroyed. Upon completion of
19 any requested review and no later than 30 days after the request for
20 the review was received, the principal or his or her designee shall
21 respond in writing to the written request and either shall confirm
22 that the record has been destroyed or, if the record has not been
23 destroyed, shall explain why destruction has not yet occurred.

24 Except as provided in paragraph (2) of subdivision (b), no
25 liability shall attach to any person who transmits or fails to transmit
26 any notice or information required under subdivision (b).

27 (e) For purposes of this section, a “juvenile case file” means
28 a petition filed in any juvenile court proceeding, reports of the
29 probation officer, and all other documents filed in that case or
30 made available to the probation officer in making his or her report,
31 or to the judge, referee, or other hearing officer, and thereafter
32 retained by the probation officer, judge, referee, or other hearing
33 officer.

34 SEC. 21. Section 20 of this bill incorporates amendments to
35 Section 827 of the Welfare and Institutions Code proposed by both
36 this bill and SB 1704. It shall only become operative if (1) both
37 bills are enacted and become effective on or before January 1,
38 2003, (2) each bill amends Section 827 of the Welfare and
39 Institutions Code, and (3) this bill is enacted after SB 1704, in
40 which case Section 19 of this bill shall not become operative.

~~SEC. 22.~~

SEC. 31. Section 20 of this act shall only become operative and take effect if Assembly Bill 3000 or Senate Bill 1843, or both, of the 2001-02 Regular Session are enacted and become effective and add Section 68087 to the Government Code.

SEC. 32. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

